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MINUTES
WATER RESOURCES COMMITTEE
COUNCIL CHAMBER, EIGHTH FLOOR
WAILUKU, MAUI, HAWAII
AUGUST 4, 2008

APPROVED:

Committee Chair

REPORTED BY: JEANNETTE W. IWADO, Hawaii CSR #135
Registered Professional Reporter

1 CONVENE: 9:15 a.m.
2 PRESENT: Councilmember Michelle Anderson, Chair
3 Councilmember Michael P. Victorino, Vice-Chair
4 Councilmember Gladys C. Baisa
5 Councilmember Joseph Pontanilla
6 EXCUSED: Councilmember Danny A. Mateo
7 STAFF: Kim Willenbrink, Legislative Analyst
8 Clarita Balala, Committee Secretary
9 ADMIN.: Jeffrey K. Eng, Director, Department of Water Supply
10 Herb Chang, Engineering Program Manager,
11 Engineering Division, Department of Water
12 Supply (Item No. 1)
13 Scott English, Lieutenant, Fire Prevention
14 Bureau, Department of Fire and Public Safety
15 (Item No. 1)
16 Tamara Horcajo, Director, Department of Parks and
17 Recreation (Item No. 14)
18 Ron Kubo, Golf Course Superintendent, Department
19 of Parks and Recreation (Item No. 14)
20 Francis Miyazono, Maintenance Superintendent,
21 Department of Parks and Recreation (Item No.
22 14)
23 Edward S. Kushi, Jr., Deputy Corporation Counsel,
24 Department of the Corporation Counsel
25 SEATED IN THE GALLERY:
26 Milton M. Arakawa, Director, Department of Public
27 Works
28 Roy Silva, Executive Assistant, Office of the
29 Mayor
30 Cindy Y. Young, Executive Assistant, Office of
31 the Mayor
32 OTHERS: Thomas Croly, Maui Vacation Rental Association
33 (Item No. 1)
34 Richard Pohle (Item Nos. 1 & 14)
35 Sherman D. DePonte, President, Akamai Land
36 Surveying, Inc. (Item No. 1)
37 Jocelyn Perreira, Executive Director, Wailuku
38 Main Street Association, Inc./Tri-Isle Main
39 Street Resource Center (Item No. 14)
40 Lucienne de Naie (Item Nos. 1 & 14)
41 Tom Nelson (Item No. 14)
42 Thom Foster, Manager, Island Plant Company, LLC
43 (Item No. 14)
44 (7) additional attendees
45 PRESS: Akaku: Maui Community Television, Inc.
46 Harry Eagar, *The Maui News*
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1 CHAIR ANDERSON. ...(gavel)... Good morning. The
2 Water Resource [sic] Committee meeting of August 4th is now in
3 session. With us this morning we have Vice-Chair Victorino.

4 VICE-CHAIR VICTORINO: Good morning. Aloha,
5 Chair.

6 CHAIR ANDERSON: Good morning. Member Joe
7 Pontanilla.

8 COUNCILMEMBER PONTANILLA: Good morning.

9 CHAIR ANDERSON: Good morning. Member Gladys
10 Baisa. Good morning.

11 COUNCILMEMBER BAISA: Good morning, Chair.

12 CHAIR ANDERSON: Thank you for being here.

13 Member Danny Mateo is excused.

14 Also with us this morning from the Department of
15 Water Supply we have Director Jeff Eng.

16 MR. ENG: Good morning.

17 CHAIR ANDERSON: Good morning. And head engineer
18 Herb Chang.

19 MR. CHANG: Good morning.

20 CHAIR ANDERSON: Good morning, and congratulations
21 on your promotion.

22 Also with us from Corporation Counsel is Deputy
23 Corp. Counsel Ed Kushi, Junior.

24 MR. KUSHI: Good morning.

25 CHAIR ANDERSON: Good morning. Ed is suffering

1 from something, so we're going to go easy on him today.

2 (Laughter).

3 Also with us from our staff is analyst Kim
4 Willenbrink and Clarita Balala, our secretary.

5 So, Members, again, we have an ambitious agenda.
6 Just to give some direction, before we open up we are going
7 to be discussing the bill on fire flow. But it is my
8 intention not to pass that out today. We have had several
9 meetings with various departments since our last meeting,
10 and with new suggestions apparently it's been some time
11 since the departments had interfaced on their various
12 regulations. And so it's going to take us some time to get
13 some consistency.

14 We don't want to put something in that contradicts
15 what Public Works or DSA is doing, or what fire flow -- the
16 Fire Department is doing, or what the Water Department is
17 doing. So there will be topics of discussion that we're
18 going to do today in order to get some clarification, so
19 that when we do get the final draft on this bill it will be
20 the final draft that we can discuss. Okay?

21 I think that, you know, what set us off on this,
22 of course we have -- we have maybe 30 sections of the water
23 rules that need to be reviewed and adopted. They are
24 currently in effect. They have the force and effect of law
25 currently. But it's my intention to try to get a final

1 draft in front of this Committee and out of this Committee
2 by the end of this year. But that means we're going to have
3 to do a lot of work on the bill, because a lot of it is old
4 and outdated, and there needs to be a lot of clarification.

5 Many of these chapters were adopted over different
6 periods of time with different boards, and this is our
7 chance to bring it all into a real clear format, and so
8 that's my intention on that.

9 This one section that we're working on, we brought
10 that forward because of the inconsistency between fire and
11 water in regards to B&B's, and we are going to be clarifying
12 that.

13 It is the intention of this Committee, based on
14 the last two meetings that we had, that fire flow is
15 determined in the Water Department by zoning district, and
16 we're going to leave it that way. And basically what we
17 have done is we've taken out the ISO standards, put in the
18 Fire Department standards for building calculations, so that
19 if the minimum fire flow -- if you exceed the minimum fire
20 flow by the density of your building, then the calculated
21 figures, the figures for calculating square footage of
22 buildings, that is triggered.

23 And in that calculation you are allowed a 50
24 percent discount if you put in sprinklers. We're going to
25 make sure that happens, because we want to be fair and

1 equitable to everybody, no matter if you're a B&B or what
2 you are. If you meet the fire flow standards, then you
3 should be able to do whatever it is you're doing on your
4 property, whether it's commercial or not.

5 Well, I'll take that back. If it's commercial,
6 there's different standards, and that's what we tried to get
7 away from.

8 We don't consider B&B's as hotels. Unless you get
9 over 10 bedrooms, then the higher fire flow is required just
10 because the density is increased and the minimum fire flow
11 standards don't apply. So that's briefly what we're doing
12 with the, I guess we could call it the fire flow bill.

13 Then we will be discussing the irrigation, the
14 conservation bill. Members, you have a new copy of that.
15 We did do some outreach to the Parks Department, to golf
16 courses, and to the hotel association.

17 Kim, did you provide us all a desk top copy of the
18 new bill or is it just in the binders? The final is in the
19 binder, including mine? Could you come get mine out for me?

20 And I just want to give some brief outline of
21 that, because I want testifiers to recognize the direction
22 we're taking. I don't know if any of you are here for that,
23 but just to give some direction.

24 We recognize that areas of large turf, large turf
25 areas may not be able to get all their watering done in a

1 two day period so -- well, actually large landscaped areas
2 may not get their watering needs achieved in two days
3 because they have such a large area to water. So we put a
4 section in that allows them to -- thank you -- water
5 sections of a larger parcel of landscaping in sections. I
6 was trying to think of another word.

7 In other words, if you have a very large area and
8 your normal sprinkling schedule only allows you to sprinkle
9 a certain section of it or a certain zone on any given day,
10 then we're not going to hold you to just two days for the
11 total property. We're going to say sections of it can be
12 done on one day of the two day schedule, and then other
13 sections can be done. So that every section of your
14 property gets at least two days, is what I'm trying to say.

15 So that is -- and we're looking at square footage
16 to determine how big that would be, and that may not be a
17 feasible qualification. We don't know the number of square
18 feet yet, but I'm sure we will hear about it from the
19 hotels. We did an outreach to all of them, and we have
20 received some input back from them.

21 The other thing that we determined -- and I'm just
22 bringing up the things that are different, Members, than
23 what we discussed last time. The other thing that we
24 determined was that the Parks Department, we wanted to make
25 sure, remember, that playing fields would not be adversely

1 affected, or golf, golf courses. And low and behold, the
2 Parks Department has already instituted a conservation
3 program. So I'm expecting the Parks Director, Miss Horcajo,
4 to be here this morning. So I'm sure she's on her way to
5 explain to us their conservation program.

6 In your binders under WR-14 -- it should be in the
7 back of your binder -- Miss Horcajo gave a response to us
8 with a schedule, a chart of all the parks, what their
9 scheduling is. They have already instituted their own
10 conservation program.

11 And in order for our bill to fit their needs, I've
12 made two changes, and one is that they need four days a week
13 specifically for playing fields, specifically during the
14 playing season, because the fields can't recover on a two
15 day schedule. So I have changed the bill to allow -- and
16 this is also the golf course, Waiehu Golf Course. So I've
17 changed the bill to restrict irrigation of athletic playing
18 fields and golf courses to four days a week instead of the
19 two day a week schedule.

20 And then the other thing we did, because it took
21 her months to get this conservation program instituted,
22 because you got to deal with the labor unions. You
23 know, what they're trying to do is what we want to do, and
24 that is restrict watering during the heat of the day so that
25 you don't lose water to evaporation.

1 In order for the Parks Department to institute
2 their program of not watering during the day, that means
3 they've got field maintenance people running all over the
4 County in different districts trying to get the watering
5 done after 6 p.m. and before 9 a.m.

6 So I changed our time, Members. Remember we had
7 7:00 a.m., restricting watering from 7:00 a.m. to 6 p.m.,
8 we've now changed it to 9 a.m. and I think we need to do --
9 we need to do that in order to make this work for the Parks
10 Department and Waiehu Golf Course. And the difference
11 between 7:00 a.m. and 9 a.m. is not that critical.

12 So those are the major changes in that bill. And
13 of course the purpose of the bill, just so people understand
14 before we get into discussion or testimony, is to restrict
15 outdoor irrigation of landscaping to two days a week. The
16 exceptions will be for the use of a handheld hose, as long
17 as it has a shut-off valve or a shut-off nozzle.

18 So you can water any time with that, even at noon,
19 if you think you have to. And that, you know, that allows
20 for people who have potted plants to water whenever they
21 need to. If you have a particular spot on a lawn that needs
22 extra water, you're allowed to go out and water that.

23 So I'm saying these things because, you know, when
24 you do something restrictive people panic and they think,
25 uh-oh, this is going to really adversely impact me. But I

1 want them to realize there are lots of ways that you can
2 work around this.

3 The idea is to take the one conservation measure
4 that is advised by all of the experts as the one biggest
5 thing you can do and the easiest thing you can do to save on
6 wasting water, and that is irrigation systems, large
7 irrigation use, either an automatic sprinkler system or a
8 sprinkler system that is manual.

9 We're also exempting from this irrigation for
10 commercial or private nurseries. We are not holding them to
11 any restriction. And that would of course be all your large
12 fields, all of your small farmers. Also exempted is
13 irrigation of personal food gardens. So if you have a
14 vegetable garden you can sprinkle that as needed. And we're
15 also allowing for no restriction on newly established
16 landscapes, which can be watered daily for a 30-day period.
17 That's of course to allow them to get established.

18 And then while it may not be so much related to
19 irrigation, we did put in that all manual car washing shall
20 have to use a handheld hose with an automatic shut-off
21 nozzle. Again, one of the bigger -- one of the bigger
22 wasters of water. So that's an overview on those two bills
23 that we're going to be discussing today, and I have more
24 information for you when we get into it.

25 For testimony, we have four people who want to

1 testify. You have three minutes to testify and one minute
2 to conclude. And those of you who may have cell phones,
3 please turn them off so we don't interrupt people.

4 ...BEGIN PUBLIC TESTIMONY...

5 The first person to testify is Tom Croly from the
6 Maui Vacation Rental Association. He'll be testifying on
7 the fire flow bill. Mr. Croly.

8 MR. CROLY: Thank you, Chair.

9 In consideration of the comments that you just
10 made, I don't feel the need to testify at this time. And
11 when we do have the rules promulgated we will review them
12 then. Thank you.

13 CHAIR ANDERSON: We appreciate that, Mr. Croly.
14 We know that you've been on this all along, and we
15 appreciate your input, which I received over the weekend.
16 But yeah, thank you very much. I think later when we get
17 something more definitive for you to look at, it would
18 probably be a better time for you to testify. And we
19 appreciate you giving us that time.

20 Our next one to testify is Richard Pohle.

21 MR. POHLE: Pohle.

22 CHAIR ANDERSON: Pohle. He's going to testify on
23 both items.

24 MR. POHLE: Madam Chair, the first part of my
25 testimony is my personal experience with the Water

1 Department rules over 23 years. The last part contains my
2 general comments to WR-1, and suggestions for improvement.
3 This will take about seven minutes. It's two pages. So if
4 you limit me to three plus one, I would start later down.

5 CHAIR ANDERSON: Did you pass --

6 MR. POHLE: Yes, it is passed out.

7 CHAIR ANDERSON: Okay, got it. Are you testifying
8 -- is this testimony in regards to which item?

9 MR. POHLE: WR-1, water supply rules.

10 CHAIR ANDERSON: Okay. Well, we can't give you
11 seven minutes though. Pick out what you want to bring to
12 our attention, we'll read through the whole thing.

13 MR. POHLE: Very well. I will withdraw the
14 history part, but it's in the testimony.

15 CHAIR ANDERSON: Okay.

16 MR. POHLE: Even worse, fire protection
17 requirements have gone from provide a hold harmless letter
18 then in 1986 to construct a public water storage tank with
19 capacity for 120,000 gallons now. And since reference to
20 NFPA 1142, present in the current Fire Code are absent in
21 this legislation replacing it, it is not clear to me that
22 sprinkler systems can be used to reduce the water storage
23 requirements. Thank you for your comments in the
24 introduction.

25 If the bill under consideration becomes law and is

1 administered, as is his custom by the Director with these
2 newly-enacted powers, subdivisions on Crater Road and like
3 communities will be eliminated without the express consent
4 of the Director. Such power in the hands of one person is
5 dangerous.

6 The fundamental problem with this bill is that
7 while any change in property status requires a large
8 up-front cost, the benefits of this investment are long
9 delayed and risky. Few small developers, that is small
10 landowners, have such deep pockets. The end result is
11 gridlock; no meters or tanks, no development, no affordable
12 housing, and no property tax revenue that could be used to
13 upgrade the county water and fire fighting facilities.

14 No one denies that a parcel with a meter is worth
15 much more than the same land undivided from its neighbor
16 without a meter. Since the County has to provide the
17 infrastructure improvements which initially benefit the
18 meter owner, the County is entitled to recoup some of the
19 expense of these improvements. How can this bill
20 efficiently accomplish this?

21 Since providing adequate fire protection and a
22 sufficient water supply are fundamentally different, I will
23 address them separately. Adequate fire protection requires
24 large storage capacity and delivery system. The specified
25 flow rate and piping diameter seem to get larger with each

1 provision of this bill.

2 To avoid duplication, in other words, large
3 storage tanks on every property, the tanks should be public.
4 I suggest that the County place an assessment, say 10
5 percent on the parcel, due on the sale of the property. Or
6 where the property is given to family, due on the granting
7 of the building permit. Then the cost could be financed as
8 part of the purchase or building loan. Inclusion of a
9 sprinkler system should affect the assessment amount. Thank
10 you. The County will use these funds as they accrued for
11 infrastructure improvement.

12 When I asked why not use the hold harmless letter
13 approach, I was told that even with this letter, the County
14 could be sued in the event of a fire on a newly permitted
15 building. That is hard to imagine. But if it is the case,
16 I would think that the owner of the burned down building on
17 the next door grandfathered parcel would have a better case
18 since the County did not more aggressively pursue
19 infrastructure improvements for fire protection.

20 When the County revisited -- revised the Fire
21 Protection Standards up from 400 gallons per minute to 1,000
22 gallons per minute, the County declared all of Crater Road
23 unsafe. Did the County start construction of a larger
24 storage tank? At least the County should increase the
25 switchback shortcut from the existing 2.5-inch pipe to an

1 8-inch pipe.

2 An adequate water supply simply requires that
3 supply exceeds demand. Pipe and storage capacity needed is
4 small compared to that required for fire protection. The
5 Water Department is best equipped to address the supply
6 side. The County Council can influence demand by setting
7 the price of water.

8 Above a fixed price for baseline amount depending
9 on land usage, let the price fluctuate. Last month it was
10 almost painful for me to watch you decide who can water,
11 when and how. You even mentioned hiring an extra person for
12 enforcement.

13 MS. WILLENBRINK: Four minutes.

14 MR. POHLE: If everyone knew -- I've got this much
15 left -- that the price of their water depends on
16 conservation, you would have a thousand eyes reporting
17 waste, and people would read your recommendations on how
18 best to conserve their water.

19 CHAIR ANDERSON: Mr. Pohle, I'm going to have to
20 cut you off. We have it in writing -- oh, wait a minute,
21 you can go ahead because this is a separate subject matter.

22 MR. POHLE: Okay, thank you. This is on
23 irrigation.

24 CHAIR ANDERSON: Right.

25 MR. POHLE: Yeah. Read your recommendations on

1 how best to conserve their water. One or even a hundred
2 more users will not cause the County water system to fail.
3 It fails gradually with additional usage. In the meantime,
4 assessment funds accrued can be used to improve the
5 infrastructure and to increase the supply. I ask the County
6 to consider these approaches. I will withdraw the last two
7 sentences from my testimony. Thank you very much.

8 CHAIR ANDERSON: Mr. Pohle, thank you.

9 Hang on one second, I want to have one
10 clarification. Where you say, "When I asked why not use the
11 hold harmless letter approach, I was told that even with the
12 letter the County could be sued in the event of a fire on a
13 newly permitted building," who did you ask and who told you
14 that?

15 MR. POHLE: I'd rather not say that.

16 CHAIR ANDERSON: Well, can you just say was it
17 somebody within the Department of Water Supply or Fire?

18 MR. POHLE: No, it was not.

19 CHAIR ANDERSON: It was someone from the County?

20 MR. POHLE: Yes.

21 CHAIR ANDERSON: Okay. Any other questions?

22 Thank you, Mr. Pohle.

23 Our next testifier is Sherman DePonte. He's
24 President of Akamai Landscaping, and he will be testifying
25 on WR-1.

1 MR. DePONTE: That would be Akamai Land Surveying.
2 Can you hear me clearly?

3 CHAIR ANDERSON: Pardon me?

4 MR. DePONTE: Can you hear me?

5 CHAIR ANDERSON: Now I can.

6 MR. DePONTE: Okay. That's President of Akamai
7 Land Surveying.

8 CHAIR ANDERSON: You've got to talk right into the
9 mic, Mr. DePonte.

10 MR. DePONTE: Okay. President of Akamai Land
11 Surveying. I'm Sherman DePonte, President of Akamai Land
12 Surveying and a land surveyor based in Hawaii, California
13 and Arizona. I've been doing this business for 33 years.
14 I've watched peoples' dreams come up and go up in smoke
15 because of change of rules and what's happening.

16 One of the things is our last -- my last time, my
17 last visit with you people was on June 16th. I put together
18 -- I followed what the rules or your recommendations, one of
19 which was what was the board meetings that I attended that I
20 did have agreements, basically verbal agreements at. Mike
21 Victorino was at one of those, at those meetings. So I made
22 my list, I sent it off to you people.

23 The next one was a letter to Jeffrey Eng,
24 Department of Water, Water Supply, and basically requesting
25 -- the letter, I sent it to all your Council Members, and

1 requesting what is it that you are going to want from me.
2 And the reason is because three years that it has been
3 changed and it keeps changing.

4 My main point on this whole thing is basically if
5 you're going to have rules that we the citizens are going to
6 have to follow, I believe the County needs to follow their
7 own rules and standards that they set forth. And if they
8 want to change the line from 6-inch, or from a 6-inch water
9 line or a 4-inch to an 8 or 10 or 12-inch water line, I
10 believe they should have the money appropriated for that
11 before that can be changed, or it's not right. It's really
12 not right for us, the kamaaina that's been here.

13 I'm fifth generation here. I'm wearing a shirt
14 that is from Holy Ghost Church that we helped put together.
15 The significance of this is 1894 that mission was put
16 together. We had a thing called the Holy Ghost Feast was
17 given for giving out and prayer for what? Water, rain,
18 water. It's over 114 years we are still waiting for the
19 water, to get that solution for the water.

20 We've had a number of changes of standards, and it
21 hasn't been followed by the County. And again, the point
22 that I need to make here is that if the change is going to
23 happen you're inflicting it on us, the kamaaina, and we
24 need -- we need some kind of something that's going to
25 change that. And they need to follow their own rules that

1 they set forth, not just change it and let it go.

2 I've pointed out on the last testimony here on June
3 16th about days after, you know, days, maybe a month after
4 they put in a water line it's already obsolete, and the
5 people cannot get their water meter. Similar to us on
6 Crater Road, we cannot get our water meter until we do the
7 improvements. I gave you the numbers, it's all there.

8 What is being done from the County's side to do
9 that improvements, to improve that, to abide by that
10 standards? I don't see it. That's all, I guess.

11 CHAIR ANDERSON: Thank you, Mr. DePonte.

12 Members, any questions?

13 Mr. Pontanilla.

14 COUNCILMEMBER PONTANILLA: Thank you, Mr. DePonte,
15 for being here this morning. It's kind of interesting when
16 you say that when we do new construction work, whenever the
17 line goes in it's already obsolete. Can you explain that?
18 Where did you get that type of information in regards to,
19 you know, we putting in equipment that is already obsolete?

20 MR. DePONTE: I had a letter to you people, the
21 last, on June 16th. It was one to -- sorry, I'm near and
22 farsighted. I'm actually farsighted, I can't see near when I put
23 on my glasses.

24 Okay, there was a letter to Mr and Mrs. Medeiros,
25 and this was on December 17, 2002. She called me and asked

1 me to do a subdivision on a property in Keokea. And one of
2 the things I said, "You have to go through the Water
3 Department and find out if you can get your water first."

4 I was personally involved with the layout of the
5 water lines that was put in, and they had a -- I'm not sure
6 what the size of the water line was, but what happened is on
7 the letter that I submitted to you guys on the last one, it
8 says, "The current department standard for providing fire
9 protection to the proposed subdivision lot is to upgrade the
10 existing water system to provide 2,000 gallons per minute
11 for a two hour duration, minimum 20 psi residential
12 pressure."

13 What happened is there was a line from that
14 Polipoli Road, I think it's middle, crossroad. I think it's
15 Polipoli Road coming right down to the Keokea Park right in
16 front of -- all the way up to Fong's store, right past
17 Fong's store. They put in what I thought was a big water
18 line. All of a sudden they wanted it bigger. And it was
19 just put in.

20 CHAIR ANDERSON: Can you give us the size of what
21 it was? What was the size of the line?

22 MR. DePONTE: What's that?

23 CHAIR ANDERSON: The size of the water line. You
24 said a big line, but we need specific sizes, Mr. DePonte.

25 MR. DePONTE: They wanted a 10-inch, and I'm not

1 positive on the size, I didn't -- it's been years and I just
2 -- I had the plans, and when I laid it out they put it in.
3 And it was like if you look at the time on this thing,
4 December 17, 2002, it's like right after. This letter was
5 given to her right after it, right after that line was put
6 in, shortly after.

7 CHAIR ANDERSON: Well, does that help, Mr.

8 Pontanilla?

9 COUNCILMEMBER PONTANILLA: Yes. And maybe you can
10 question the Department later on on that. Thank you.

11 CHAIR ANDERSON: Okay.

12 COUNCILMEMBER PONTANILLA: Thank you, Mr. DePonte.

13 CHAIR ANDERSON: And isn't Keokea rural?

14 MR. DePONTE: Keokea was rural, but you have
15 commercial. Keokea you have --

16 CHAIR ANDERSON: But --

17 MR. DePONTE: -- country.

18 CHAIR ANDERSON: Yeah, but the lot in question is
19 a rural zoned lot?

20 MR. DePONTE: That's correct.

21 CHAIR ANDERSON: Okay. And they were asking them
22 for residential standards?

23 MR. DePONTE: Um.

24 CHAIR ANDERSON: I mean I don't understand where
25 2000 gallons per day was required, why.

1 MR. DePONTE: I -- that's what I, you know, I was
2 blown away on it, because the main thing that I saw there
3 was the line went in. They wanted, they wanted this person
4 to put in another line. It's sort of like on the Crater
5 Road that we had a 6-inch water line. They want an 8-inch
6 water line now, before we can get our water.

7 And that 6-inch water line, certain places that
8 you saw on our, on my little thing, there's another example
9 of that. Right on Crater Road, 6-inch water line, now they
10 want an 8-inch water line.

11 We had an agreement to upgrade the two-and-a-half
12 inch water line to make it a 6-inch or 8-inch to get the new
13 standards in line with the new standards in case the County
14 wanted to improve the other ones. That went out the door.
15 And that's two examples of the changing of the rules and not
16 -- the County Water Department not being held accountable
17 for upgrading their lines and making sure the money is
18 there.

19 They're expecting me, and you saw the numbers, to
20 put in that money to upgrade their line. And of course
21 they'll give me half back after five years, maybe, but the
22 interest on everything is on my shoulders. And I think it's
23 tough for an individual citizen to do that, especially when
24 my bank account is zero.

25 CHAIR ANDERSON: Okay, thank you, Mr. DePonte.

1 Any other questions?

2 COUNCILMEMBER PONTANILLA: Chair, I've got one
3 more question.

4 CHAIR ANDERSON: Yeah, Mr. Pontanilla.

5 COUNCILMEMBER PONTANILLA: With regards to your
6 requirement that you get 50 percent after five years, should
7 anybody else come on the existing line, the line that you
8 helped improve, do you get any refund from those guys or any
9 kind of rebate from either the County or people, you know,
10 hooking up on to a line that was improved by yourself?

11 MR. DePONTE: I think what you're asking is, once
12 we put in the line we've noticed -- and I've done this
13 through the years. Again, 33 years of this I've seen a lot
14 of it. One of the things is a lot of people is just waiting
15 in the wings, and they won't come out because they don't
16 have to put up the money. And it's a lot of money for us
17 over here, you know. We don't make that much here in
18 Hawaii, and coming up with that kind of money is just
19 astronomical, you know.

20 I showed you 1.2 million now from a 1992 thing
21 that was supposed to be 60,000, maybe 100,000 max, now
22 it's 1.2 million. It's like where do I get that? I mean
23 I'm not digging up gold.

24 But anyway, once the lines get in -- and we've had
25 this down Kimo Drive that my uncle put in a piece of

1 property, he had his subdivision go in. And what happened
2 is now through Kimo Drive he had to improve the line. Okay,
3 he improved the line around the switchback to Ainakula.

4 Once that line was in, almost immediately after
5 that line was in they didn't even give him one year, the
6 next guy down took the line from that point on and didn't
7 pay any dollars back to him. The County didn't pay except
8 that half that went up for that line that he put in. And
9 there was no like proration as you hook up to that line.

10 So that my uncle and his family struggled and put
11 that money in and got that line in to better the community
12 in there, similar to what we're doing on Crater Road. I put
13 in the line. If I was to do it and basically try to go to
14 my neighbors and see which one is, you know, getting up
15 there that needs to sub from me.

16 For me, I need it for my children, and that's my
17 biggest plea here, is I need help with that. And I think a
18 lot of families around here -- we were talking last time
19 with Ms. Baisa here -- it's about we struggle. We cannot
20 even give our children the land. And that's what I'm going
21 to do.

22 COUNCILMEMBER PONTANILLA: Thank you. I think you
23 answered my question, Mr. DePonte.

24 MR. DePONTE: Thank you.

25 COUNCILMEMBER PONTANILLA: Thank you very much,

1 Chairman.

2 CHAIR ANDERSON: Thank you, Mr. Pontanilla.

3 Any other questions?

4 Ms. Baisa.

5 COUNCILMEMBER BAISA: Thank you again for coming,
6 Mr. DePonte. You keep us focused on some of the issues, the
7 large issues. You know, we get caught up in little cases,
8 but to me there's a large philosophical question. And I'd
9 be interested -- I can kind of guess what the answer is, but
10 I'd like to hear you.

11 The philosophical question that I struggle with is
12 who should bear the brunt of making sure that there is
13 adequate infrastructure? Should it be the individual
14 homeowner when they build or the developer or whoever, or
15 should it be the County Water Department to provide that
16 basic infrastructure? And then of course the people that
17 connect would pay for what they need.

18 MR. DePONTE: I think the philosophical
19 -- I almost feel like I'm on Miss Hawaii or
20 something. (Laughter)

21 COUNCILMEMBER BAISA: No, I mean please, just I
22 would like to know your manao.

23 MR. DePONTE: Yes. I'm sorry, I wasn't prepared
24 for that. But anyway, being my ancestry, I will say
25 something about it.

1 COUNCILMEMBER BAISA: Mine too, so let's have it.

2 MR. DePONTE: In any case, it's (laughter).

3 COUNCILMEMBER BAISA: We've never been known to be
4 wimpy, come on.

5 MR. DePONTE: Okay. What we need, I believe it
6 should be a pro rata type of thing. If there's a hundred
7 lots that can be developed after that, because I'm zoned
8 rural, one-half acre. Bottom is one acre. Whatever it is
9 in that area, how much your lot can be subdivided to be in
10 that area that's going to be serviced by that line.

11 I think the County first, when they set the
12 standard, there should be some kind of bond or something
13 that we can borrow into, we can put into to get it going.
14 Someone that has -- wants it to get going, get it flowing.

15 Once everybody gets into it, it shouldn't be like
16 okay, so much pro rata coming back to me if I did the
17 development first. Whoever else that did it, that they
18 should have a portion that comes back.

19 And but the thing is if we're going to set
20 standards, if I'm going to set a standard up here, I've got
21 to live up to that standard up there. Not build things like
22 this and go and okay, we only have this much money to play
23 with, but we want to set the standard up there.

24 And I think the County, you know, coming from the
25 water you are getting recommendations from me, yes, it's

1 great, you know, for fire protection. And yes, we all need
2 it. But when I call the Fire Department and they're there
3 in 15 minutes, you know, by that time my building is down,
4 you know. I've got ashes to put out, peel out and stuff.

5 The next thing is we have a fire -- we have a 12-inch
6 line that was just put in by the County for right above our
7 place, you know, on that where that tank is. There's a water
8 line that cuts right across the County put in for irrigation.

9 Well, if there's a fire and we use 10,000 gallons
10 for the fire, or 20, or 200,000 gallons, whatever they're
11 going to use to put out that fire that they're saying,
12 there's a line that can be for an emergency also that's
13 sitting there right now, you know, water in it, I'm
14 guessing. I don't know why you put in a water line without
15 water, you know. That's 12-inches right there above what
16 they want me to put an 8-inch line to come down.

17 So I'm saying pro rata and try to have everybody,
18 try to get the community. I've been trying to find out
19 whose -- I found out Mr. Pohle is one, I found out like
20 Molina. Molina's was another family in the area. And I
21 think there was another, Toda, Cathy Toda, which was another
22 one, the lavender farm lady.

23 And one of the things that got me on this thing
24 was when I put in that line if I'm -- Mr. Pohle, Molina,
25 Toda put in that line, Haleakala Ranch can come right in on

1 that Heritage Center that just got approved by the Council
2 for a Special Use Permit, and tap into that line and get
3 their water to satisfy, because they're already struggling to
4 put water up on their water tank.

5 They pay big bucks to have that water hauled up
6 and put in their tanks to supply for that commercial that
7 they're going to be putting in, that Heritage Center that's
8 coming in.

9 COUNCILMEMBER BAISA: Thank you very much. You
10 did an excellent job of trying to, you know, give us some
11 information and things to think about as we make decisions.
12 Thank you very much.

13 MR. DePONTE: You're welcome.

14 CHAIR ANDERSON: Mr. DePonte, where does Haleakala
15 Ranch get -- haul water from for their Heritage Center?

16 MR. DePONTE: They're hauling it from down here in
17 town someplace. They're buying the water down here, paying,
18 you know, premium for it.

19 And then they're hauling, there's a trucking
20 company, it's a Freitas, RC, there you go, RC Trucking
21 hauling it up. It's a potable water tank. It takes it up
22 to the National Park and to Haleakala Ranch tanks.

23 There's a -- what happened was I was running on
24 the Haleakala road, I do my exercise going up, and what
25 happened is I went, wow, there's a tank there and there's a

1 nice little cut-off road, like a little turn-off road there.
2 And I kind of went, oh, that's interesting, you know. And
3 then I saw from outside you can see the pipe, that little --
4 what you call that? The Driscoll line, which is a plastic
5 line running right down to the tank.

6 And I'm going, wow, they have a private water
7 system that's supposed to be coming from, let's see, either
8 drilled or, from when I think about it, private water system
9 drilled, catchment, or spring. Well, there's this thing
10 that this big truck comes in, turns around, parks over
11 there, and fills up the tanks with that water that's brought
12 from down here.

13 CHAIR ANDERSON: Okay, thank you, Mr. DePonte.
14 One other thing I want to -- you know, you keep saying you
15 are currently zoned agriculture.

16 MR. DePONTE: Rural, half acre.

17 CHAIR ANDERSON: You got your change in zoning to
18 rural?

19 MR. DePONTE: Yeah, it's rural. It was rural half
20 acre. We didn't change it, it was rural half acre when I
21 bought it in '92, but what happened is they tried to change
22 it to rural one acre.

23 CHAIR ANDERSON: Oh, okay, okay. So you're rural
24 already?

25 MR. DePONTE: Yes, we're rural already. And now

1 the Heritage Center is commercial, but they're not zoned --
2 they're agriculture and they're going to go -- they're going
3 to have their commercialized building in there right above
4 us.

5 CHAIR ANDERSON: Yes. Thank you very much for
6 coming, Mr. DePonte. We're going to try to address this as
7 best we can.

8 MR. DePONTE: Thank you very much, I appreciate
9 all your help.

10 CHAIR ANDERSON: Our next testifier is Jocelyn
11 Perreira from Wailuku Main Street Association/Tri-Isle Main
12 Street Resource Center, and she's going to be talking about,
13 talking on the irrigation bill.

14 MS. PERREIRA: Good morning, Madam Chair.

15 CHAIR ANDERSON: Good morning.

16 MS. PERREIRA: Council Members. My name is
17 Jocelyn Perreira, I'm the Executive Director of the Wailuku
18 Main Street Association, Inc./Tri-Isle Main Street Resource
19 Center.

20 I'm here today to speak on a couple of issues. I
21 do want to thank Mr. DePonte for taking some time to explain
22 some of the stuff that we hear continually, especially, you
23 know, our organization will be taking a formal position once
24 we get the final draft of the ordinance. And we do thank
25 you for the hard work trying to be very conscious about the

1 importance of this important resource.

2 There's some very good things in here, but there
3 remain some concerns and, you know, it's coming from
4 different sectors that feel heavily impacted. And that will
5 be not the least of which is the Upcountry, Makawao, and Kula
6 areas that really continually are the ones that have had to
7 endure and seem to be paying the price every time we have
8 droughts or what have you. And they feel pretty put out
9 about it.

10 Their families have been kept from getting on the
11 lands that they've worked for generations because they are
12 meeting with exorbitant costs and requirements that at
13 times, you know, like Mr. DePonte said, when rules change
14 you have one standard this year, you try to work and prepare
15 for it. The next year you have a different standard.

16 And it's when somebody is going to make an
17 improvement on a roadway or something, one family bears the
18 burden of the cost, and they don't get it prorated, it's not
19 rebated. They cannot -- they don't even get a tax credit
20 for it.

21 So it does seem to be problematic, and I'm glad
22 that he took the time to express that. And I have to add my
23 voice because we know water is -- this is a very, very
24 important issue relative to especially the people Upcountry.
25 They have taken a lot for so many years.

1 I also wanted to stress on fire flow. Thank you
2 for trying to work this through, because one, a Dr. Sword,
3 for instance, has a small practice in Makawao. It seems
4 really crazy when they're going to have to meet a
5 requirement of having to fix a water system line from very
6 far away at exorbitant cost for a small office building,
7 when just a short way from his business you have land that
8 caught fire and the Fire Department brings the trucks and
9 they can put it out with the water in the trucks.

10 So I'm glad that you have put aside the fact that
11 you are going to look further into the conflicting
12 regulations between the Water Department versus the Fire
13 Department, so on and so forth, because these kinds of
14 things make people very, very confused.

15 Another item of concern is the fact that there
16 should be some consideration for users to utilize their
17 vehicles for work or sports who are carefully and conserving
18 water now.

19 MS. WILLENBRINK: Three minutes.

20 MS. PERREIRA: It's not only that the County Parks
21 Department needs waivers or understanding, our hotels need
22 understanding, but we have a huge, huge amount of people
23 that are private independent entrepreneurs, and they work
24 for a living. Some of them work two and three jobs. And
25 when they get home they have to clean their vehicles because

1 maybe they're doing a variety of things, either they're
2 hauling pigs and they've got to shoot the trucks down, or
3 they have land, small little landscaping companies, or so on
4 and so forth.

5 I mean we want to be really careful, I think, when
6 we start regulating the little guy to death. And I know
7 regulation in some form and fashion in this ordinance is
8 really important, and I know that the intentions are well
9 intended. But we want to be sure now our families and small
10 little families that are reliant on doing their small little
11 businesses, whether it be water sports that they've got to
12 come and shoot down their vehicles or what have you, because
13 they made investments in the vehicles that are part of their
14 business.

15 MS. WILLENBRINK: Four minutes.

16 MS. PERREIRA: We want to make sure that, you
17 know, these people are not impacted as well. So these are
18 just some of the issues. I thank you for the opportunity to
19 put some of these concerns forward. I think a lot of people
20 are frustrated, they feel like, you know, what can they do.
21 You know, it's the same old, same old all the time. And,
22 you know, it gets to the point where this is one of the
23 little straws that can break the camel's back for a lot of
24 families that are on limited incomes. Thank you.

25 CHAIR ANDERSON: Thank you, Ms. Perreira. Were

1 you here at the beginning of the meeting?

2 MS. PERREIRA: Yes.

3 CHAIR ANDERSON: Did you hear me say that there's
4 no restriction on washing your cars except that you have to
5 use a handheld shut-off nozzle?

6 MS. PERREIRA: Yeah, we understood that for the
7 regular every day citizen. We are talking about people who
8 use their vehicles to conduct business that need to be able
9 to wash them down.

10 CHAIR ANDERSON: Well, it would apply to them,
11 too. There's no restriction --

12 MS. PERREIRA: Okay.

13 CHAIR ANDERSON: -- on when you can wash your car
14 manually, as long as you --

15 MS. PERREIRA: It has to be after certain hours,
16 though.

17 CHAIR ANDERSON: No, there's no restriction.

18 MS. PERREIRA: As long as there's a nozzle to stop
19 the flow.

20 CHAIR ANDERSON: Yes.

21 MS. PERREIRA: Well, that's good, that's good to
22 hear that. So that takes care of one very important part.
23 But the other concerns remain.

24 CHAIR ANDERSON: Well, you're not really clear on
25 what your concerns are. I mean commercial, you know,

1 commercial nurseries and farms are exempt.

2 MS. PERREIRA: Well, they're not just nurseries
3 and farms, there are other kinds of businesses that people
4 conduct, and they go home and they have to wash their
5 vehicles.

6 CHAIR ANDERSON: Well, I just said that vehicle
7 washing is exempt.

8 MS. PERREIRA: Okay, that's good. I just wanted
9 to make that clarification so people were aware of that.

10 CHAIR ANDERSON: Yeah, I thought I was very clear
11 on that at the opening of the meeting. Any questions from
12 Members?

13 Ms. Baisa.

14 COUNCILMEMBER BAISA: Are you okay, Jocelyn, or is
15 there still something that you're not okay with now that
16 Chair has answered your concerns about washing of the
17 commercial vehicles?

18 MS. PERREIRA: Well, I guess my concerns, our
19 concerns lie in the area of one of the questions that you
20 asked frankly about who bears the brunt for adequate
21 infrastructure. You know, if it's the basic service,
22 in order to get the basic service if the person who
23 owns the property has to pay, put that outlay of cash up-front
24 or whether, you know, there should be a basic service
25 that's expected, and then you pay for the additional cost

1 surrounding that. Because it is true that sometimes you can
2 go up and down the street --

3 CHAIR ANDERSON: You know, I'm going to cut the
4 conversation off because this is not on our agenda.

5 MS. PERREIRA: Okay.

6 CHAIR ANDERSON: And even though it is a
7 philosophical question.

8 MS. PERREIRA: Okay.

9 CHAIR ANDERSON: We have certain items on our
10 agenda that we have to address, and we have to stay within
11 that. So if you don't have any other questions on
12 irrigation or the fire flow.

13 MS. PERREIRA: No.

14 CHAIR ANDERSON: Mr. Pontanilla.

15 COUNCILMEMBER PONTANILLA: Thank you.

16 Ms. Perreira, do you have the latest draft of the
17 proposed ordinance?

18 MS. PERREIRA: You know, I was hoping that I did.
19 It could be that I don't, because we tried to get one.

20 COUNCILMEMBER PONTANILLA: Yeah, I think it would
21 answer, you know, most of the questions that you asked.

22 MS. PERREIRA: We went online this morning to get
23 the one that I have in my hand, and that's why I may have
24 one that's not exactly online yet.

25 COUNCILMEMBER PONTANILLA: Okay. There are copies

1 up front here and she's going to give you one.

2 MS. PERREIRA: Thank you.

3 COUNCILMEMBER PONTANILLA: Thank you, Chairman.

4 CHAIR ANDERSON: Thank you, Mr. Pontanilla.

5 Thank you, Ms. Perreira.

6 MS. PERREIRA: And thank you for your hard work on
7 this.

8 CHAIR ANDERSON: Thank you. Our next testifier
9 and last testifier is Miss Lucienne de Naie, and she's going
10 to testify -- are you testifying on fire flow or irrigation?

11 MS. De NAIE: Both.

12 CHAIR ANDERSON: Both. If there's anybody in the
13 audience that wants to testify, now is the time to come up.

14 MS. De NAIE: Thank you. Thank you, Chair and
15 Members. My name is Lucienne de Naie. I'm testifying on
16 both RW-1 [sic] and RW-14, [sic] although I forgot to write RW-14
17 [sic] on my form. I'm testifying as a private citizen today.

18 I'm affected by the fire flow discussion because I
19 live in the Catch-22 area. I live in an area that was
20 subdivided back in the 60s and 70s, and at that time
21 people put in whatever kind of water systems that they could
22 cobble together, because there is no public water system in
23 large areas of Maui.

24 Sherman has been out to my place, he surveyed it,
25 and a lot of the things that he discussed I have to say, you

1 know, we face the same things. When a person tries to get a
2 building permit to build an ohana or to do a family
3 subdivision, as my neighbors the Rost's did, or my neighbors
4 Moki Kahiamoe when he divided his land among his children,
5 you just go through nightmares. You're held to these
6 absolutely unattainable sort of restrictions.

7 And yet, you know, there is no public water system
8 so you have to figure out how to meet fire codes. And
9 frankly, what happens is, if there's a fire out where we
10 live, because we're a long way from a fire station -- and
11 even when the station goes in in Haiku, we're still going to
12 be a long way from a fire station and down dirt roads and so
13 forth and so on, the houses burn down. They, you know,
14 they're not saved.

15 So I would like to see the idea that's been
16 referred to by several people, and I'm going to term it in a
17 certain way, that we create a structure where folks in these
18 rural lands that are far from service can have community
19 improvement districts that where instead of each person
20 having to bear the burden of creating this huge tank or huge
21 pool, or whatever the Fire Department deems that you must
22 do, instead people within that neighborhood could pool
23 together with some help from the County, you would hope, and
24 get an adequate storage tank.

25 Now, where we are part of the problem is getting

1 the water to fill the storage tank. My well pumps five
2 gallons a minute. I saw that the agricultural rate there is
3 500 gallons a minute for two hours. Well, we'd be at it a
4 long time to fill the tank to that, and we have one of the
5 few wells there. There's about 15 wells in our valley.

6 About a thousand people live in Huelo in our
7 voting area between Haumana Road and Kailua. Well, at least
8 500 registered voters, so you can figure at least a thousand
9 people, because not everyone registers and there's children
10 and so forth and so on. So all these people are facing this
11 situation in their households. So something that could
12 support these community improvement districts, either a
13 little addition onto the taxes or something where people
14 could pay in together would just make so much more sense.

15 And the areas affected are not just Huelo, not
16 just, you know, from Kaupakalua to Keanae basically is no
17 public water system, but also Kipahulu to Kaupo, Waihee and
18 any land past the river, and all the way to Kahakuloa. So
19 there's a number of areas on Maui that are facing these
20 concerns, and I think it would be good to work with members
21 of the community.

22 I don't think anyone in my community was aware
23 that this was on the agenda today, so I'd like to take this
24 information back and make sure that we can be part of the
25 solution here. I know it's no one's intent to make things

1 harder. The Fire Department wants to do a good job, the
2 Council wants to do a good job. But there are so many
3 distinct stories, and it's good that Mr. DePonte came here
4 to share his, and I'm here to share mine so that we can work
5 together.

6 I'm going to switch topics now to Water Resources
7 14, the bill to restrict watering. I want to commend the
8 Council for looking out for the wide range of interests that
9 have to be covered. And as a water researcher, I've been
10 aware that other municipalities and rural areas have adopted
11 these kinds of standards when they're faced with long-term
12 drought conditions.

13 I think it's a very, very good policy to be
14 exploring, especially if we can, you know, make sure it's
15 fair to everyone. Because like everybody else, I've driven
16 around Wailea and other places, Maui Lani, and seen water
17 running in the streets from sprinklers, you know. We see it
18 happen in mid-day. And you have to say, gee, and we're, you
19 know, we're telling people not to water their lawns, and
20 here I see water running in the street. What goes?

21 Well, some of this may be from private wells, but
22 I understand that's covered in this as well. And I think it
23 is good, water is a public resource, whether you have your
24 private little straw or whether you're getting it from the
25 County. It is a public resource.

1 I'm proud to say that because of legal conditions
2 that have been discussed by the County with Hui O Na Wai Eha
3 and others concerned with Central Maui water, the Parks
4 Department did do a real review of their practices and came
5 up with these conservation measures. So it's good to push
6 the envelope a little bit, because it causes institutions to
7 work with, cooperatively with the resource.

8 And I think that we can definitely see that the
9 average homeowner in their garden and their potted plants
10 and so forth is not going to be affected by this, but the
11 places that are trying to turn a desert into a tropical rain
12 forest are going to have to think twice about maybe they
13 might want to get some different kind of shrubbery.

14 I also need to say that the public really has
15 concerns when they're told to sacrifice and we see in the
16 paper pictures of Wailea and we see pictures of big swimming
17 pools and waterfalls and so forth. Now, waterfalls, maybe
18 they can use non-potable water. Swimming pools, that's got
19 to be water from the Iao Aquifer.

20 And I have to say I was sad when I appeared before
21 this body in March and begged you not to allow four swimming
22 pools to be constructed 100 feet from a public beach in
23 Makena in a subdivision that was approved on an acre and a
24 half. It just makes common sense that this Council needs to
25 use the power they have not only to put sensible rules in

1 about landscape irrigation, but to look at the kind of
2 development that's being proposed and just put conditions on
3 and say, you know, we are not giving out that kind of water
4 at this point.

5 Every swimming pool takes a lot of water that a
6 family could be using for something else. And is a swimming
7 pool necessary 100 feet from the ocean? I don't happen to
8 think so. And I hope that this Council will reevaluate some
9 of these things as time goes on. You know, we're stuck with
10 some of the things that have been done, and I wish they
11 could be undone.

12 MS. WILLENBRINK: Three minutes.

13 MS. De NAIE: For instance, we're all reading about
14 the project at Maluaka, it's going to be so green because
15 they're going to have low impact, you know, landscaping,
16 native plants and so forth. They're also building a spa.
17 How much water does that take? All has to be potable water.
18 That wasn't mentioned. So there isn't a spa there now, and
19 there will be when it gets constructed, all using water
20 along with those 69 water meters that have been issued
21 there.

22 So people have to ask, if I have to cut back on
23 watering my lawn, what else is going on at the end of the
24 pipe here in Makena where it's a desert being turned into a
25 luxury spa. Thank you.

1 CHAIR ANDERSON: Thank you, Miss de Naie.
2 Members, any questions? Seeing none, thank you.
3 Our last -- our next testifier is Tom Nelson and
4 he'll be speaking on the irrigation bill. We've also got
5 written testimony from Mr. Nelson.

6 MR. NELSON: My name is Tom Nelson, I live at 161
7 Halona in Kihei. I sort of feel like the bad guy here
8 because I have nice, a nice yard. I bought my house because
9 I have a really nice yard. I'm relatively new to Maui, but
10 I've been working to move here and retire and live in
11 paradise. And however, my neighbor also has a nice yard.
12 He's been developing it for 23 years he's lived there. My
13 yard has existed for 30 years. I sort of inherited the
14 irrigation system I have.

15 It was using quite a bit of water when I first
16 moved here, and then after I saw in the paper that we had a
17 drought going and Mr. Eng asked us to reduce from 28, you
18 know, the whole Central and South Maui to reduce from 28 MGD
19 to 25, I did my part, I reduced by 10 percent. Kind of the
20 stick was that if we didn't, then mandatory restrictions
21 would be imposed. But I feel that Central and South Maui
22 has responded to the request.

23 I would rather see a collaborative type of
24 interaction with the County, rather than slamming
25 restrictions as a first course of action. And so I guess I

1 would say try ask. And if you ask and then people don't
2 respond, then invoke restrictions. Also, I think
3 restrictions should be based on drought conditions, instead
4 of a permanent solution perhaps to a temporary problem. I'm
5 not totally informed as to the long-term nature of the water
6 supply.

7 You know, from my perspective when I moved here I
8 knew Maui has the second wettest spot on earth. I don't
9 know how available that water is or how hard it is to get or
10 how hard it is to store, but I think in a collaborative
11 environment the County would do its best to provide as much
12 water as they can, and the citizens would also collaborate
13 with them to say what is a sustainable amount.

14 I thought 25 was a sustainable amount. I felt
15 pretty good about the fact that I, that Central and South
16 had reached the goal that was specified. And now we have a
17 rather onerous requirement, I believe, in two days a week.

18 I have been in drought conditions in California
19 where we were asked to do every other day irrigation based
20 on conditions, and it was a temporary restriction, and it
21 did reduce the water and we got through that drought period.
22 And then conditions improved and the restrictions were
23 removed. I'm a little fearful of permanent restrictions to
24 a temporary problem.

25 So I did submit my written testimony, and I'm not

1 going to read all through that. I just wanted to say that
2 the quality of life issue shouldn't be taken lightly. I'm
3 living my dream, I'm very grateful for being able to live my
4 dream. I fully intend to further investigate restriction of
5 the use of my water and replacement of plants --

6 MS. WILLENBRINK: Three minutes.

7 MR. NELSON: -- on a reasoned basis, instead of if
8 an ordinance comes slamming down then all of a sudden I
9 immediately have to take action to replace plants, perhaps
10 as they die off. And if all of us have to do that at once,
11 we're probably going to run out of plants, for one, and it
12 won't allow me to do it in a reasoned efficient manner.

13 And also using a hand sprinkler is wasteful in
14 itself. I have a lot of drip irrigation which I can't,
15 won't be able to use other than the two days a week because
16 I can't put it on a hand nozzle. So I think drip irrigation
17 is a very good way to conserve water as well. So anyway, I
18 hope you read my testimony, and thanks for your
19 consideration.

20 CHAIR ANDERSON: Any questions, Members? Ms.

21 Baisa.

22 COUNCILMEMBER BAISA: Just one big question. How
23 large is your house lot?

24 MR. NELSON: It's 8,000 square feet.

25 COUNCILMEMBER BAISA: Okay, thank you.

1 VICE-CHAIR VICTORINO: Madam Chair?

2 CHAIR ANDERSON: Mr. Victorino.

3 VICE-CHAIR VICTORINO: Yes. Mr. Nelson, right?

4 MR. NELSON: Yes.

5 VICE-CHAIR VICTORINO: Okay. I thought I heard
6 Nielson, so I just wanted to make sure you were the same person.

7 Approximately every two months what is the amount of water you
8 use, I mean your water bill, approximately?

9 MR. NELSON: Well, I just looked. I used, last
10 year in July I used 1,500 gallons a day and I reduced it to
11 1,200. I hope to reduce it further, but that's my current
12 use.

13 VICE-CHAIR VICTORINO: Okay. That was very
14 important in my mind because, you know, I just wanted to
15 know what your usage is as far as your daily usage.

16 Thank you, Madam Chair.

17 CHAIR ANDERSON: Thank you, Mr. Victorino. Thank you,
18 Mr. Nelson. Our last testifier is Thom Foster. He's
19 the Manager of Island Plant Company.

20 MR. FOSTER: Thank you very much for your time
21 today. I'll speak very briefly. I received a copy of the
22 ordinance from a concerned client on Friday, I think, and
23 looked through it briefly in a letter. I just wanted to
24 voice today some concerns I had about the level of
25 restriction that is called out in the ordinance and the

1 effect that it might have on landscapes in arid areas. And
2 so I myself live in Kula and my yard has been brown for 15
3 years in the summer. And I have a heart for our water
4 conservation here very much.

5 But in the areas where I'm a landscape contractor,
6 we maintain lawns and gardens in Kihei and Wailea and on the
7 West Side also, and the only thing I wanted to point out to
8 the Council Members today is that the level of two days of
9 watering a week and the hours that are called out, I don't
10 think it's possible to provide enough water for the plant
11 materials to actually survive. So there is an impact to our
12 clients just that you're probably looking at re-landscaping,
13 and just the depth of turf and shrubs and ground covers and
14 whatnot. There is a big impact.

15 I wholeheartedly approve of trying to conserve
16 water, and actually I would make it known that many of the
17 people that we work for have a similar heart and concern,
18 and so we have been getting input from owners of property in
19 -- and our clients that are looking for ways to conserve.
20 So many are changing irrigation systems and adding drip
21 systems and adding weather stations and computer control
22 systems to utilize it very intelligently and increase water
23 management.

24 But I do have concerns about year-in and year-out,
25 week-in and week-out having just two irrigation days, so

1 the irrigation systems themselves cannot produce enough
2 water in that time. So in other words, their sourcing is
3 not large enough to provide the water in that amount of
4 time. And so actually the irrigation systems themselves
5 would have to be upgraded, and it's very possible that even
6 the water meters providing the water to the main lines are
7 not satisfactory, and so the drip systems, the irrigation
8 rate is rather slow.

9 MS. WILLENBRINK: Three minutes.

10 MR. FOSTER: And so that's a very good way of
11 irrigating, but the time requirements are much larger.
12 Anyway, I just wanted to highlight that and provide that
13 information.

14 CHAIR ANDERSON: Mr., sorry, Foster?

15 MR. FOSTER: Yeah.

16 CHAIR ANDERSON: Do you have any quantitative
17 studies to support the claims you're making?

18 MR. FOSTER: No.

19 CHAIR ANDERSON: Okay.

20 MR. FOSTER: Only 25 years in the field.

21 CHAIR ANDERSON: Well, I've done a lot of research
22 on this, and I'm just wondering, you know, you're saying
23 that they may need to increase the size of the meter.

24 MR. FOSTER: Uh-huh.

25 CHAIR ANDERSON: What's that based on, why would

1 you say that?

2 MR. FOSTER: Water requirements of plants can be
3 -- are a lot of times talked about in acre inches, so in the
4 agricultural industry they talk about an acre inch per week.
5 And so that's on green surface, having an inch of rainfall
6 each week to keep the plant materials alive and growing. So
7 landscapes need something similar as agricultural crops.
8 Xeriscape plantings would take less, but basically you have
9 to -- if you're going to try and provide something like --

10 CHAIR ANDERSON: Are you saying that landscaping
11 needs an inch a week and that if we -- if we restrict them
12 to two days a week --

13 MR. FOSTER: I was saying that agricultural crops --

14 CHAIR ANDERSON: I'm trying to figure out why you
15 say they -- you would have to have a bigger size meter,
16 water meter.

17 MR. FOSTER: Because if you're trying to provide X
18 amount of water and this size of opening (indicating) cannot
19 provide enough water for this area in 12 hours, that creates
20 a problem.

21 CHAIR ANDERSON: Well, we have people in Wailea,
22 Makena and Lahaina, some of the lush properties, using 12,
23 15, 2000 gallons a day, and their meters seem to work just
24 fine. So if we limit them to watering two days a week, and
25 we're not limiting the amount of time they can water -- the

1 times when they can water, but not the amount of time --
2 ostensibly somebody could keep their sprinklers watering all
3 night long. So I don't understand your claim that they may
4 need a bigger meter.

5 MR. FOSTER: Right. Yeah, I'm not pushing for
6 larger meters, that's not a specific point.

7 CHAIR ANDERSON: Yeah, but when you make a claim
8 like that you should have something to back it up. Because,
9 you know, I don't know how restricting watering to twice a
10 week would require someone to have a greater size water
11 meter.

12 MR. FOSTER: Right, so timing could be one factor,
13 and the amount of water that can be put through a system is
14 a second thing. So timing. So you could have drip
15 irrigation system and --

16 CHAIR ANDERSON: Are you addressing my question?

17 MR. FOSTER: I'm sorry, maybe not.

18 CHAIR ANDERSON: Well, the question was why would
19 someone need a larger size water meter if we're restricting
20 their watering to twice a week?

21 MR. FOSTER: I'm not a hydrologist, so I can't
22 answer that.

23 CHAIR ANDERSON: Okay. Thank you. Any other
24 questions, Members?

25 Mr. Pontanilla.

1 COUNCILMEMBER PONTANILLA: Thank you. Thank you,
2 Mr. Foster, for being here this morning. You mentioned that
3 you're a landscape contractor.

4 MR. FOSTER: Yes.

5 COUNCILMEMBER PONTANILLA: You know, good
6 information in regards to the technology that has gone
7 throughout the years regarding, you know, controlling
8 landscape water.

9 MR. FOSTER: Right.

10 COUNCILMEMBER PONTANILLA: Since you are a
11 landscape contractor, have you seen any new construction
12 areas that utilize water tolerant plants, or do they
13 continue to plant, you know, nice looking foliage?

14 MR. FOSTER: Yes, landscape architects are
15 utilizing a lot more drought tolerant plants. One of the
16 things they're doing is -- and I think this is at the
17 request of the County, I'm not sure -- but they're putting
18 in less turf areas, square footage of turf. So turf is kind
19 of a heavy water user, and so I see landscape architects
20 putting in mulching, like cinders for ground cover, and
21 utilizing drip systems, and I see them providing less turf
22 areas to cut down on that water usage.

23 So in the design area there's a lot of things
24 happening, including the use of native plants that are just
25 coastal plants that just require less water and do much

1 better with less water.

2 COUNCILMEMBER PONTANILLA: Thank you. Thank you,
3 Chairman.

4 VICE-CHAIR VICTORINO: Madam Chair?

5 CHAIR ANDERSON: Mr. Victorino.

6 VICE-CHAIR VICTORINO: Yes, thank you. I'm
7 curious, being that you're an expert, let's say for
8 discussion purposes you do this for a business, so I would
9 consider you at least knowledgeable in the area of
10 irrigation.

11 MR. FOSTER: Yeah.

12 VICE-CHAIR VICTORINO: We hear about drip
13 irrigation, and you brought it up, drip irrigation versus
14 sprinkler heads. And I've always been curious, why haven't
15 we gone more into drip irrigation? Can you give me a reason
16 why you would recommend drip here and maybe sprinkler here,
17 or what predicates the decision that sprinkler versus drip
18 irrigation would be more effective for that particular
19 plant, turf, whatever?

20 MR. FOSTER: Yes, so drip is a lot more localized
21 in its distribution, so the sprays, you know, broadcast on a
22 wide area, so they're very important for use in turf areas,
23 the sprays. The drip can be utilized around shrubs and
24 trees and even ground covers if they're planted with that
25 design.

1 That's what I see in the landscape architects'
2 approach, the way that they're planting ground covers is
3 actually designed with the irrigation system in mind, so the
4 drip lines are 12 inches apart, the plants are 12 inches
5 apart. So there's a really concerted effort in new projects
6 to either reduce ground covers or to be able to utilize drip
7 systems.

8 The problems with older systems are it's not an
9 easy thing to transfer from sprays to drip systems. There's
10 interest in people, there's a lot of interest in our clients
11 in ways to conserve water, for cost and for heart for water
12 conservation in general, but there is a cost to it. So
13 we're getting lots of inquiries about how to do something,
14 how to lessen the burden, and one of those areas of being
15 able to do that is changing to drip. And so but it takes
16 redesign and it costs money to do that, so they're wrestling
17 with that.

18 VICE-CHAIR VICTORINO: Okay, I think you answered
19 my next question, because I was going to kind of go into
20 what the cost factor is from changing from let's say a
21 sprinkler system to a drip irrigation, changing some of the
22 turf to aesthetics, other plant life, Hawaiian, natural
23 plants, you know.

24 Because I think many times in many cases you
25 always talk about cost, but the fact of the matter is one

1 day you're going to pay Peter. If it's not today, five
2 years from now, because rates will continue to go up. And
3 that's one of the things we're wrestled with, and I won't go
4 into details, but raising rates on a different tier for
5 those high users so that they would consider changing.
6 Because once we use up our water it's not something we can
7 get right away, get it back. So thank you for your effort.

8 Thank you, Madam Chair.

9 CHAIR ANDERSON: Thank you, Mr. Victorino.

10 Any other questions?

11 Seeing none, thank you for being here, Mr. Foster.

12 MR. FOSTER: Thank you, Ms. Anderson.

13 CHAIR ANDERSON: Okay, Members, and I hope you
14 stay around, those of you who are interested in this. If
15 you, you know, if you have concerns, please stick around to
16 hear the discussion.

17 ...END OF PUBLIC TESTIMONY...

18 We're going to take our break, Members, 10
19 minutes, 20 minutes to 11. The committee is in recess.

20 ...(gavel)...

21 RECESS: 10:28 a.m.

22 RECONVENE: 10:47 a.m.

23 CHAIR ANDERSON: ...(gavel)... The Water Resource [sic]
24 meeting of August 4th is now reconvened.

25 Thank you for that break, Members.

1 ITEM NO. 1 WATER SUPPLY RULES (C.C. No.05-46) .

2

3 CHAIR ANDERSON: So, you know, I want to -- as
4 usual, there's just not enough time, is there? I want to
5 maybe just bring up a couple of issues that are still
6 unresolved, and get a couple of clarifying comments from
7 Corp Counsel and the department, to give us some direction
8 on where we're going with the fire flow portion of this
9 bill. And then I want to move into the irrigation bill.

10 The Parks Department is here, also the folks from
11 the golf course. We don't want to waste their time, we want
12 to give them some time to make some comments. And I have a
13 lot of things to depart to all of you on this irrigation
14 bill. You know, whenever there's change it's always
15 difficult, but change is good if it accomplishes what your
16 goal is.

17 So on the fire flow bill, I want to get
18 clarification. These are areas, you know, as we've been
19 studying this and looking into it, new issues come up every
20 time we meet, and I want to get clarification.

21 And I'm sorry, Members, I don't have the time to
22 give you all the background on this, so I'm hoping that you
23 can, you know, if you don't understand what we're talking
24 about, just raise your hand and ask a question.

25 Currently in the bill there -- in the water

1 regulations, in the current regulations, which still have
2 the force and effect of law -- I wish *The Maui News* would
3 print that. Where is Mr. Eagar? (Laughter)

4 There is a provision, and it's part of our bill
5 that we're looking at right now under General Conditions For
6 Water Service, and this is the section that is looked at
7 when a building permit is requested. And your the bill,
8 Members, that would be section 4 -- the first section of the
9 bill, which is 14.04.010.

10 And if you look at page 2 under item E, starting
11 with, "Fire hydrants and necessary pipelines and
12 appurtenances shall be installed by the developer in rural,
13 residential, business, industrial, apartment, duplex,
14 commercial," on and on. And the reason they name all those
15 districts out is because agriculture is district -- is
16 different because standpipes are used instead of hydrants.

17 But the issue that I want to bring up is where it
18 says, "Provided, however, that the foregoing shall not be
19 applicable to the construction of the first and second
20 dwelling unit on a premises in any district."

21 When we met with DSA on this, they wanted us to
22 add in a sentence that says, "Unless a deferral agreement
23 has been signed for a family subdivision."

24 Now, I want to find out from -- so how this is
25 used then is if you come in to get a building permit for two

1 dwellings, say a house and an ohana, on a previously
2 subdivided land. The idea is that when the land was
3 subdivided the fire flow requirements were met as part of
4 the subdivision. So if you come in later to build, the
5 first two dwelling units are exempted from any further
6 upgrades. The Fire Department wanted us to take this out,
7 and the Water Department wants us to keep it in.

8 So I guess, Director Eng, could you make some
9 comments in regards to -- or maybe you could turn it over to
10 Herb if you want. This is his area of expertise. If we
11 could just get an explanation on that from the Water
12 Department, and then we will ask the Fire Department for
13 their perspective.

14 MR. ENG: Thank you, Madam Chair. I will
15 indeed turn this over to Mr. Chang. He has been meeting
16 with the Fire Department and their staff over the recent few
17 days. Thank you.

18 MR. CHANG: Is the question about the history of
19 the first and second dwelling or --

20 CHAIR ANDERSON: Well, maybe, you know, maybe you
21 can give us a little history on it and why you think it's
22 necessary to keep it in.

23 MR. CHANG: Okay. Back in 1984-85 there was a
24 change in our current rules and regs which allowed the first
25 and second dwelling, whenever a first and second dwelling

1 building permit application. The change was made to such that
2 the Department would not require any fire protection require --
3 make any requirements for fire protection for the first and
4 second dwelling.

5 We believe, because none of the staff was there at
6 the time, that the purpose was to allow anybody with land,
7 existing property to build the first and second dwelling
8 without having to address the Water Department's fire
9 protection requirements.

10 And the benefit to the public is that if you're in
11 the -- take, for example, Haiku. If you're in the area
12 where the water line is inadequate for fire protection, if you
13 have a property there that you've had forever and you just
14 wanted to build your first and second dwelling, you wouldn't
15 be required to do any kind of fire protection requirements.
16 So that was the main benefit to the public.

17 CHAIR ANDERSON: So that there's not existing fire
18 protection in that area, that one single homeowner would not
19 be required to upgrade just for their first and second
20 dwelling.

21 MR. CHANG: Yes.

22 CHAIR ANDERSON: And then down the road if they
23 come in for a third dwelling, then what happens?

24 MR. CHANG: Under the current rules and regs they
25 would be required to meet the subdivision requirements for

1 the third, fourth, et cetera, dwelling.

2 So, for example, in ag zone the current fire
3 protection is 250 gallons a minute. So standpipes, so
4 they need to extend a line, depending how far they are,
5 4 inch, 6 inch, possibly with a standpipe to the property.

6 CHAIR ANDERSON: Okay. And that would be -- that
7 would be a big upgrade.

8 MR. CHANG: For some, depending how far they
9 are away from the water line, existing water mains.

10 CHAIR ANDERSON: Okay. Any question, anybody?

11 Okay. So the Fire Department, under the fire flow
12 requirements for buildings in Appendix 3-A it states that,
13 "The minimum fire flow and flow duration requirements. How
14 many gallons per minute for two hours. For one and two
15 family dwellings having a fire area which does not exceed
16 3,600 square feet."

17 And then it allows, it says, "Fire flow and flow
18 duration for buildings having a fire flow area in excess of
19 3,600 square feet shall not be less than that specified in
20 table A-3, A-3(a)(1), which is the building fire flow
21 requirements. If you are over 3,600 square feet, then it
22 kicks up. "With the exception that a reduction in required
23 fire flow of 50 percent as approved is allowed when the
24 building is provided with an approved sprinkler system."

25 So Lieutenant English, is this the reason that you

1 don't want the first and second dwelling exemption?

2 MR. ENGLISH: Thank you, Chair Anderson.

3 No, right now in our current code that was adopted
4 we amended Section 903.2 of the '97 Fire Code, which states
5 that all Group R, Division 3, which would be dwellings, and
6 Group U, occupancy buildings, utility buildings, such as
7 barns, garages, more than 700 square feet in total area
8 shall be within 500 feet of a fire hydrant or standpipe
9 measured by an approved route.

10 So the first building permit comes in on the
11 property we require them to be within 500 feet of a fire
12 hydrant or standpipe. And if the area does not have a
13 source of water, they would have to follow the guidelines in
14 NFPA 1142, which is a standard for rules, water supply for
15 rural fire fighting, and we apply that. They would have
16 to install like an on-site water tank or provide sprinklers
17 in the building.

18 CHAIR ANDERSON: What was that rule that you
19 quoted just then?

20 Excuse me, Lieutenant English, they would have to
21 comply with what rule if they're not within 500 feet?

22 MR. ENGLISH: They would have to follow the
23 guidelines in NFPA 1142, which is an ordinance that was
24 adopted in 2002. And the heading on that NFPA document is,
25 The Water Supply For Suburban and Rural Fire Fighting.

1 CHAIR ANDERSON: We haven't seen that, have we?

2 MR. ENGLISH: Yes. It is in Maui County

3 Code 16.04B.130.

4 CHAIR ANDERSON: You mean the guidelines for NFPA
5 is outlined in that section? I just see it referenced in
6 that -- oh, here it is. Table A-3(B)1)?

7 MR. ENGLISH: Yes.

8 CHAIR ANDERSON: Is that what you're referencing?

9 MR. ENGLISH: Yeah. I don't have the
10 ordinance number in front of me right now, I'm not sure of the
11 number.

12 CHAIR ANDERSON: Can I show it to you?

13 (Document handed to Lieutenant English)

14 That's what I'm trying to get to, is what are
15 those actual guidelines. It's just -- it's being referenced
16 under 16.04B.130.

17 MR. ENGLISH: Okay. For example, if there
18 is no fire protection in some rural areas, NFPA 1142, you
19 would have to require an on-site water tank based on the
20 size of the house. So basically you take the total cubic
21 feet of the house, apply the formula to it, and you would
22 have to put an on-site tank ranging from 3,000 to up to
23 20,000 gallons of water, depending on the size of the house
24 to be protected.

25 CHAIR ANDERSON: Okay. So those actual guidelines

1 are not in the Code anywhere, they're another guideline.

2 MR. ENGLISH: It should be in the County
3 Code. It was an ordinance adopted in 2002.

4 CHAIR ANDERSON: I see Ordinance 3354, part 20 --
5 section of part three, 2006. All right, we will check on
6 that ordinance.

7 So are you saying that it's not part of Chapter
8 16, or it is part of 16, the actual guidelines?

9 MR. ENGLISH: I'm not sure if it's part of
10 Chapter 16. So the main reason is if the Water Department
11 has an exemption for the first and second dwelling, we do
12 not have an exemption. They would have to provide -- they
13 would have to be within 500 feet of a hydrant, or have
14 to provide us a minimum fire protection. So that was my
15 main argument with them, to see if they can take it out,
16 because we don't exempt from the first and second dwelling.

17 CHAIR ANDERSON: Okay. But now if they are -- if
18 they have the minimum fire flow protection then -- and they
19 are within 500 feet of a fire hydrant or standpipe, then
20 you're good?

21 MR. ENGLISH: Correct. They would be okay
22 to build.

23 CHAIR ANDERSON: So then their exemption would be
24 all right?

25 MR. ENGLISH: Correct.

1 CHAIR ANDERSON: But if they aren't within a fire
2 hydrant and they are building -- or let's see here -- or if
3 they're building a house over 750 square feet they -- oh, it
4 says if it's 700, more than 700 square feet in total area
5 shall be within 500 feet of an approved hydrant or
6 standpipe. So if they're under 700 square feet, then they'd
7 be okay, if someone was doing a small cottage.

8 MR. ENGLISH: Yes. If it's under 700
9 square feet they do have an exemption.

10 CHAIR ANDERSON: Okay. So this is something I
11 guess we need to work out in greater detail because, again,
12 it's a conflict between the two departments.

13 And, I'm just going to ask. Does the Water
14 Department have objections to deferring their requirements
15 to meet the Fire Department's requirements? If you want to
16 say, "I'll think about it," that's okay too.

17 MR. CHANG: I think we need to think of the
18 ramifications.

19 CHAIR ANDERSON: Yeah, I would like you to do
20 that, Mr. Chang, if you could.

21 So, Members, that is an outstanding issue.

22 The next issue is -- anybody wants to make a
23 comment or question on that?

24 Okay, I don't know if we're going to get to the
25 storage tanks, but something I think is very important for

1 us to look at, we passed out a March 2005 Corp. Counsel
2 opinion. It should be on your desk. It's not in your
3 binder, we passed it out this morning. It's kind of a
4 maroon colored ink.

5 Okay, Members, you got it?

6 I wanted to bring this up, because we seem to be
7 having continuing conflicts that I think that this opinion
8 addresses, and I want to see us put some language in this
9 bill that makes it very clear that the opinion in this
10 letter from Mr. Kushi is codified in some way so that we
11 don't continually --

12 VICE-CHAIR VICTORINO: Madam Chair, I hate to
13 interrupt, but --

14 CHAIR ANDERSON: Yeah, use your mic, Mike.

15 VICE-CHAIR VICTORINO: What is the date on this?

16 CHAIR ANDERSON: Oh, it's March 29th, 2005 to Mr.
17 Tengan from Mr. Kushi.

18 VICE-CHAIR VICTORINO: Thank you, Madam Chair.

19 CHAIR ANDERSON: I thought I saw you all with it.

20 And what this opinion is, and I'm just going to
21 shortcut what brought this up and what the opinion
22 addresses, and then I'll direct you to a couple of
23 sentences. Then we will have Mr. Kushi give us his
24 comments.

25 Somebody who was building on a lot which they

1 bought, which had been subdivided many years previously,
2 which was part of a subdivision that had been subdivided
3 many years previously, they went in to get a building permit
4 and they were told that they had to upgrade to the current
5 subdivision standards. And they didn't think that was fair,
6 since the subdivision had been previously subdivided under
7 other standards. And I think we have many instances like
8 this. This particular one was on Molokai.

9 And Mr. Kushi opined that the requirements set
10 forth in Section 3-1 of the Department of Water Supply
11 Rules -- and Section 3-1, Members, of their current rules
12 references water service installation. In other words, when
13 you go to get a water meter at building permit stage.

14 "The requirements set forth in Section 3-1 of the
15 Department of Water Supply Rules apply to prospective
16 consumers or developers of non-subdivided/stand-alone lots
17 or properties and, therefore, do not apply to non-conforming
18 subdivisions whose water systems were approved and accepted
19 by DWS pursuant to its old rules and standards."

20 I'm sorry, Members, that's the very top paragraph
21 on page 4.

22 And then on page 5, I want you to all have this
23 because I think this is an important letter, and please take
24 your time to read it later. But we don't have time to go
25 through it specifically, I want to just get to the

1 conclusion of this letter.

2 On the top of page 5, Mr. Kushi does state that
3 while the Department's intention is good because they want
4 to make sure that there's adequate fire safety for everyone
5 who builds, he does say that in the last sentence, "We find
6 no provision that would permit retrospective operation or
7 application of new standards or requirements to previously
8 approved and accepted subdivisions."

9 And then the last thing that I want to point out
10 is his very last sentence advising that, "If maintaining
11 adequate water pressure," the bottom of page 5, "is of
12 concern to DWS and if the subject lot requesting a meter is
13 situated at such an elevation 'that it cannot be assured a
14 dependable supply from the department's distribution
15 system,' requiring the lot owner to enter into an elevation
16 agreement with DWS in accordance with Section 3-3 of the DWS
17 Rules would not be unreasonable." Section 3-3 references
18 the elevation agreement.

19 So Mr. Kushi, maybe you might want to clarify that
20 last, give us a little explanation on how that elevation
21 agreement works, and then any other comments you want to
22 make about this.

23 MR. KUSHI: Yes, Madam Chair.

24 The opinion speaks for itself, and this was three
25 years ago, so I don't really remember everything that I

1 wrote. But again, it's, like all opinions from our office,
2 it was advice, a response to a Department's question, and it's
3 not law. This is just an opinion interpreting the rules and
4 regulations.

5 However, this is advice from our office to our
6 clients how to treat a situation pursuant to the rules. And
7 the bottom line was that the Department cannot
8 retrospectively, retroactively apply current rules and
9 regulations, which are stricter usually in the case, to
10 subdivisions that have been, have gone through the whole
11 nine yards, no matter how long ago.

12 And the -- and the last paragraph you site was
13 that entering into an elevation agreement as provided in
14 their rules will fix that, would then make the applicant for
15 the building permit sign such an agreement. And if they
16 don't sign such an agreement, the implication is they would
17 have to upgrade the system.

18 CHAIR ANDERSON: Well, could you explain what that
19 agreement is, Mr. Kushi?

20 MR. KUSHI: Elevation agreements are basically
21 saying that -- and Herb Chang can maybe clarify -- is that
22 you accept what the system is now and in the future, in
23 exchange for your building permit. And you waive all
24 previous, I mean all potential situations that may happen.

25 And usually such elevation agreements there are

1 some requirements that the owner is responsible to maintain
2 such devices -- or Herb, maybe chime in -- the owner is
3 responsible to maintain and install pumps and other devices
4 to protect his property.

5 MR. CHANG: Pretty much the Department is saying
6 and the applicant is agreeing or understands by the
7 agreement that the Department cannot provide adequate water
8 pressure at all times, so he's going to make, provide his
9 own private system, like the little pump systems, so that he
10 can have the adequate pressure during times when the Water
11 Department can't provide the adequate water pressure.

12 CHAIR ANDERSON: So let's take an example, because
13 I think it's always good if we use an example. Somebody on
14 ag land that subdivided many years ago when the fire flow
15 requirements took 250 gallons per minute. And now they're
16 coming in and fire flow is saying it's 500 now for ag.

17 Because we can't apply standards retroactively, we
18 can't require them to upgrade to 500 on a previously
19 subdivided lot. But you're going to advise them that the
20 pressure isn't such that we could guarantee you would have
21 fire protection should you need it. But if you sign this
22 agreement saying that you'll put in your own pump to boost
23 the pressure when the time comes that it may be needed, then
24 we will sign off on your building permit. Is that a correct
25 understanding? I know there's variables but --

1 MR. CHANG: Yeah, I think I'm going to try answer
2 it hopefully in not what's going to be perceived as a
3 roundabout way. But if I remember right, this
4 particular thing that we've asked the Corporation Counsel
5 for was a request for the first meter on the property, I
6 believe. I remember we set out all these requirements for
7 adequate fire protection.

8 So I don't know. That's why I'm having difficulty
9 whether we're talking about asking for the first meter or
10 for a building permit application, because the two -- I'm
11 not sure whether it makes a difference because --

12 CHAIR ANDERSON: Well, I mean you've got to have a
13 meter to build, so I guess I meant the same thing.

14 MR. CHANG: Oh, okay. It kind of complicates it a
15 little bit more because the first and second dwelling
16 is exempt for fire protection.

17 So say they're asking for the third dwelling, then
18 we would -- previously we have been requiring the
19 subdivision requirements, and this is -- so we haven't been,
20 how do you say, confronted with this. Usually people just
21 usually abandon their permits. But I guess with this
22 opinion from Corporation Counsel we haven't had too many
23 people who were required.

24 So with this, to answer your question, with this
25 ordinance, excuse me, with this opinion we would have to,

1 like I say, there's no requirements. And if an elevation
2 agreement would be required then, you know, they're going to
3 have to set up some kind of private fire protection system.

4 CHAIR ANDERSON: Could that include a storage tank
5 or just a booster pump on the line?

6 MR. CHANG: Generally, the Department doesn't allow
7 booster directly coming off the water main, so they have to
8 do their own private tank, storage tank.

9 CHAIR ANDERSON: And could that be satisfied
10 alternatively with sprinkler system?

11 MR. CHANG: For dwellings, the Department's rules
12 and regs we don't allow the sprinkler option.

13 CHAIR ANDERSON: But the Fire Department does?

14 MR. CHANG: I believe they do.

15 CHAIR ANDERSON: So that's another thing we need
16 to make consistent. And in the current draft that we have
17 we're putting in, putting that in. And not just by
18 reference, we're going to have direct language stating that.

19 Questions? Ms. Baisa.

20 COUNCILMEMBER BAISA: Yeah, I have a question. We
21 talk a whole lot about installing a storage tank, and I
22 think I heard something like 3,000 gallons mentioned. What
23 does something like that cost? Round figures, don't have to
24 be accurate.

25 MR. CHANG: You can buy something that's

1 relatively on the cheap side, like a corrugated with a
2 rubber lining, and it can cost you like maybe 5,000
3 roughly.

4 COUNCILMEMBER BAISA: Okay. Okay, that's not
5 insignificant. I was just wondering what we're talking
6 about, you know. All these requirements cost people an
7 awful lot of money, so I'm just wondering what this
8 translates into to a homeowner. Thank you.

9 CHAIR ANDERSON: And, you know, we will try to get
10 more of that information out there, because the sprinkler
11 system is going to be cheaper than I think a
12 booster pump and a tank.

13 And Lieutenant English, you might want to inform
14 us what you've been telling me for the last few weeks, that
15 soon the Fire Code will propose that all new dwellings have
16 sprinkler systems, is that correct?

17 MR. ENGLISH: Yes, Chair Anderson. You
18 know, the 2006 NFPA 1, which is going in front of the State
19 legislation right now for adoption, we took it out at state
20 level as far as requiring all new residential buildings to
21 be sprinklered. But in the County amendments we will put it
22 back in, that all new building permits for residential will
23 have to require sprinklers.

24 And like I said, it's in every code now. So
25 eventually if you don't get it through this year, the next

1 three years, the next code that's going to come out is going
2 to require sprinklers, and it's going to happen. Maybe not
3 now, but it's going to happen later.

4 VICE-CHAIR VICTORINO: Madam Chair?

5 COUNCILMEMBER BAISA: Chair?

6 CHAIR ANDERSON: Just one -- I'll let you finish. Just
7 one clarifying. When you say residential, do you mean
8 residentially zoned properties or all dwelling units no
9 matter what the zoning category?

10 MR. ENGLISH: All residential will be R-land R-3.
11 Because there is a case study as far as fire related deaths, and
12 don't quote me on the number, but 95percent of them were in
13 dwellings, whether it be hotel,apartment, or single-family
14 dwellings, and that's what they're trying to prevent, the fire
15 deaths.

16 CHAIR ANDERSON: Right. So it's in the urban areas. It would
17 not apply to rural zoned or agricultural land.

18 MR. ENGLISH: It would apply to all
19 residential, whether it be farm dwellings, rural dwellings,
20 residential.

21 CHAIR ANDERSON: I thought because you said R-1
22 and R-3. So we have so much trouble with semantics, our
23 terminology crosses over. But you're saying all dwelling
24 units, no matter what zoning category.

25 MR. ENGLISH: Correct. All R-1 dwelling,

1 excuse me, it's an apartment building or hotel.
2 That's R-1. That's more than three dwelling units under a
3 roof. That's all considered R-1. R-3 would be a normal
4 one and two family dwelling unit.

5 CHAIR ANDERSON: These R-1 and R-3 numbers are
6 specific to the Fire Code and not to our Zoning Code?

7 MR. ENGLISH: It's specific to the Fire and
8 Building Code, correct.

9 CHAIR ANDERSON: Okay. Ms. Baisa, then
10 Mr. Victorino.

11 COUNCILMEMBER BAISA: Yeah, quickly, I just want
12 to finish. I'd like to make a request, if someone could
13 please for our next meeting supply us with some cost
14 estimates on the sprinkler system and on the storage tank.
15 I'd like to know what we're voting on and what we're
16 requiring and what cost -- what that will do to the cost of
17 a home. Thank you.

18 CHAIR ANDERSON: Yeah, we will get that
19 information. And the reason I said that it's cheaper to do
20 sprinklers, because I've seen the figures. David Dantes
21 gave us some figures on what it cost him. And there's a
22 whole range.

23 COUNCILMEMBER BAISA: Well, just an idea so that
24 we know.

25 CHAIR ANDERSON: Right, so we can compare.

1 COUNCILMEMBER BAISA: We're already struggling
2 with the cost of housing.

3 CHAIR ANDERSON: Okay. Mr. Victorino.

4 VICE-CHAIR VICTORINO: Yeah, so I just wanted this
5 point made clear. You're saying -- and R-1, I can
6 understand that, but R-3, anybody who builds a single-family
7 dwelling will be required to have a sprinkler, no matter
8 where in the County of Maui?

9 MR. ENGLISH: Correct.

10 VICE-CHAIR VICTORINO: So if I build a house in
11 Kahului I'm going to have to sprinkle it.

12 MR. ENGLISH: Correct.

13 VICE-CHAIR VICTORINO: Okay, thank you very much.

14 CHAIR ANDERSON: Mr. Pontanilla.

15 COUNCILMEMBER PONTANILLA: Thank you.

16 If I remember correctly, you provided us with your
17 NFPA, right, years ago in regards to the Fire Code, what was
18 proposed maybe two, three, maybe three years ago, three or
19 four years ago.

20 MR. ENGLISH: The NFPA 1142 documents that
21 was an ordinance, I think I worked with this. You were on the
22 Council, was like in 2002, and that was just getting some
23 kind of fire protection out there when people build. It's
24 not up to today's standards as far as the new standards, but
25 if they do have water on site and it's based on the size of the

1 house to be built.

2 COUNCILMEMBER PONTANILLA: So any revised or
3 revisions from that 2002 documentation?

4 MR. ENGLISH: No, there's no revisions as
5 far as that standard.

6 COUNCILMEMBER PONTANILLA: Thank you.

7 And Chairman, I don't know if staff has that, you
8 know. He's citing Fire Codes and different pages. So I don't
9 know if we have copies of the Fire Codes.

10 CHAIR ANDERSON: Not that section. That's what I
11 was asking about. Not the specific guidelines, except for
12 what he just told us. But we will look it up and we will
13 get it.

14 MR. ENGLISH: Yeah, I can bring a copy up
15 to the next meeting that we have. I have it at my office.

16 COUNCILMEMBER PONTANILLA: Thank you.

17 CHAIR ANDERSON: It's adopted as an ordinance, so
18 we should be able to get it.

19 MR. ENGLISH: Yeah, it is on line. When we
20 print it out for the customers we just print it off the
21 line.

22 CHAIR ANDERSON: Off the website?

23 MR. ENGLISH: Yes.

24 CHAIR ANDERSON: Okay. So we will get that,
25 Members. I've got the ordinance number now, so we will know

1 where to look.

2 Another question?

3 COUNCILMEMBER BAISA: Yeah, just a brief question.
4 I'd like an explanation. In this letter it talks about an
5 elevation agreement. What does that mean, can you explain?

6 MR. ENG: Member Baisa, as Mr. Chang pointed
7 out earlier, it's basically an agreement where the location
8 of your building site property we know will not have proper
9 service pressure. So you're willing to accept basically
10 inadequate pressure. And you may do the proper thing, like
11 put in a storage tank, a booster pump to provide yourself
12 with the appropriate pressure. It's basically an agreement
13 that you will execute with the County so that later on, you
14 know, you don't come back and say, "Hey, you know, you've
15 got to fix my problem."

16 COUNCILMEMBER BAISA: So essentially it's an
17 acknowledgment of the inadequacy, and that you will take the
18 responsibility to fix it?

19 MR. ENG: Yes.

20 COUNCILMEMBER BAISA: Thank you.

21 MR. ENG: You're welcome.

22 CHAIR ANDERSON: And so we're also looking at the
23 alternative to that, Ms. Baisa, which would be a
24 sprinklering the house. And so that's why it's good to know
25 the different costs.

1 Mr. Pontanilla.

2 COUNCILMEMBER PONTANILLA: Thank you.

3 Just a fast question for the Department. And the
4 question that I bring up was mentioned by one of the
5 testifiers. When there is a lack of water pressure and we
6 know of it, what is the County's responsibility to get that
7 line adequate enough to provide pressure for fire fighting?

8 MR. ENG: Member Pontanilla, well,
9 certainly it's something that we'd like to address through our
10 CIP replacement program. That's why in our budget we try to
11 budget and transfer \$3,000 from our Water System Development
12 Fee to specifically -- well, actually from our revenue for
13 specifically for capital replacement projects. And most of
14 those capital replacement projects are to correct the
15 substandard water lines throughout the community.

16 So basically it's that, it's CIP. It's -- there's
17 a lot of lines like that. Either substandard in size, old,
18 maybe of material that we prefer not utilizing. But that's
19 how it would be addressed, it would be addressed really over
20 time and through the budget that you approve.

21 COUNCILMEMBER PONTANILLA: Thank you. Thank you
22 for that explanation because, you know, a lot of
23 questions, you know, how do -- when we do replacement work,
24 you know, do we take all of these things into consideration.
25 And it seems like the Department is doing it. So thank you

1 for that response.

2 Thank you, Chairman.

3 CHAIR ANDERSON: Okay. So Members, I just want to
4 move on. This is another area that we're working on
5 clarifying and getting consistency between the departments.
6 But I thought it was important to bring this letter up
7 because, you know, it is specific to one request for a
8 building permit on a previously subdivided land.

9 But in Mr. Kushi's opinion he says that, "Section
10 3-1 of the rules applies to perspective consumers or
11 developers of non-subdivided land, stand-alone lots, or
12 properties." Meaning -- "and therefore do not apply to
13 non-conforming subdivisions whose water systems were
14 approved and accepted by DWS pursuant to its old rules and
15 standards."

16 So basically if, and correct me if I am wrong,
17 Mr. Kushi, what this says is that if you have a lot on a
18 previously subdivided parcel, or if you are on a parcel of
19 land that doesn't need subdivision, a stand-alone lot, then
20 the water pressure, the fire flow that was approved back
21 when the lot was originally subdivided is what -- is what is
22 approved for a current building permit. Correct, Mr. Kushi?

23 MR. KUSHI: Right. If somebody comes in for a
24 building permit for a lot that was previously subdivided,
25 and at that time they -- the Department of Water Supply or

1 whoever required various improvements for that subdivision,
2 then this opinion says that the Department is stuck with
3 those improvements and cannot make the lot owner upgrade to
4 current standards.

5 Versus a stand-alone, never subdivided lot that
6 did not go through subdivision, that did not -- was not
7 required to do any improvements, then Section 3.1 would kick
8 in.

9 CHAIR ANDERSON: Okay. So then if we have
10 somebody on an agricultural lot that was subdivided some
11 time ago and they're not even coming in for a building permit,
12 they've already built on it, but they're coming in for a B&B
13 permit. Why would we apply higher standards or newer and
14 higher standards to them now, if we wouldn't -- I mean isn't
15 that retroactively applying the law if they were already
16 subdivided at the 250 gallon per minute rate?

17 MR. KUSHI: In that scenario, again, my
18 understanding of the transient situation, B&B and TVR's is
19 that they're granted through a Conditional Use Permit at
20 this point in time, or they're just outright granted in the
21 Hotel District. But these are not requirements, these are
22 recommendations from both the Fire Department and the
23 Department of Water Supply, and it's up to this body to
24 accept or approve or modify those recommendations.

25 However, the underlying basis for the

1 infrastructure improvements to this previously subdivided
2 lot, again, would fall into the opinion our office issued in
3 2005.

4 CHAIR ANDERSON: Okay. Thank you, Mr. Kushi.

5 So, Members, I think we need some kind of clause
6 in this bill that makes it very clear that that is the case.
7 And we will get those figures comparing storage with
8 sprinklers.

9 And now I just want to point out one more thing,
10 and then we're going to run out of time. I'm not going to
11 point it out, because we're too short on time.

12 There is a provision, Members, requiring storage
13 tanks, and in that it says the requirement for a storage
14 tank is 1,000 gallons, enough to produce 1,000 gallons per
15 minute.

16 And so is that a conflict with you, Lieutenant
17 English, when you want 2,000 gallons per minute?

18 MR. ENGLISH: The storage tank will be
19 determined on the required fire flow. If it's 1,000 gallons
20 a minute and then you times that by a two hour duration. So
21 1,000 gallons a minute storage tank for a two hour duration
22 would be 120,000 gallons of storage capacity.

23 CHAIR ANDERSON: 120, okay. The rules currently
24 say 100,000. Storage tanks -- well, we're not going to get
25 into it, we don't have time. Again, I will be meeting with

1 Administrative staff to work all this out.

2 We're dealing with really old rules, and since
3 Mr. Eagar is now in the room, I'm going to say they do have
4 the force and effect of law, per our Corporation Counsel.
5 So they do have -- they are in effect, and will be in effect
6 until we make any changes to them. Okay?

7 Any comments on this before we move on? I want to
8 get into it. We're running so short.

9 Okay, thank you.

10 Thank you very much, Lieutenant English, for being
11 here. We really appreciate all the time you're giving this
12 Committee.

13 And Kim, would you make a note real quick about
14 finding that ordinance? Okay.

15 ACTION: DEFER PENDING FURTHER DISCUSSION.

16 CHAIR ANDERSON: I think if I could ask, if I
17 could ask maybe Mr. Chang, if you can give up your seat for
18 our Parks Director. Maybe you could sit back there for now,
19 because we may want to bring you up.

20 And Director Horcajo is here with her folks from
21 golf. And if maybe your Director of Golf wants to sit over
22 there where Mr. -- where Lieutenant English was, then we
23 will have enough mics for everybody.

24 No, you can stay there. Oh, maybe, okay, that
25 would be better. Trying to do this without a recess. Maybe

1 Director Eng can move over and the Director of Waiehu Golf
2 Course can sit next to the Parks Director.

3 ITEM NO. 14 WATER CONSERVATION (Misc/C.C. No.
4 05-273)

5
6 CHAIR ANDERSON: The reason I've asked them,
7 Members, to come is because I want you to have the
8 opportunity to ask any questions, but I also want
9 Ms. Horcajo the opportunity to explain publicly what their
10 conservation program is.

11 So I did go over a brief summary of the bill, the
12 irrigation bill that -- at the beginning of the meeting that
13 we're going to be looking at. And I want to take just a few
14 minutes to preface why we're doing this and what the
15 standards are, what the -- actually nationwide what's going
16 on with conservation.

17 You know, this is only a very small part of our
18 conservation bill, Members, and we are still waiting for its
19 review by various agencies. We've got some comments back,
20 but I'm still waiting for more. And it's going to be --
21 it's something that we should have adopted many years ago.
22 And I look at it this way, we've got to start somewhere.
23 And if I wait for everybody to get their comments in, it
24 will be another term before this ever gets even looked at.

25 You recall that we had Ms. Amy Vickers come and

1 speak to this Committee, and gave us a PowerPoint on this.
2 And her comments -- this was actually only in February of
3 this year. Her comments to us were that what we're doing
4 today is the first step that we can take in order to
5 conserve our water.

6 And I want to make it really clear, this is really
7 not a drought bill, this is a conservation lifestyle change.
8 It's about recognizing the value of our water resource.
9 That it is a resource that is a public trust asset. It belongs
10 to everybody, and everybody has a right to its protection
11 and to its wise use. So that it shouldn't be a rich man's
12 asset, it shouldn't be something that only the wealthy can
13 use in an uncontrolled manner. It should be conserved
14 across the board for everybody's fair use and into the
15 future generations to come.

16 So that is why we're doing this. We're not trying
17 to be, you know, to penalize people. We're trying to be
18 wise and conservative about how we use this very valuable
19 resource. And if that means some lifestyle changes, so be
20 it. And there's nothing in this bill that is so restrictive
21 that if you had a dying plant you couldn't go out and water
22 it with a hose, including a brown spot on your lawn,
23 including a golf course green.

24 I just want to make it really clear, Members,
25 these are water use restrictions at least as restrictive as

1 what we're looking at here today, many of which are way more
2 restrictive. And, you know, I didn't want to burden the
3 staff with copying all of this, but I'm just going to give
4 you a very quick summary.

5 This is California. California is in an emergency
6 drought in the central valley. Emergency drought. They're
7 asking for federal help. Farms are closing down, farm
8 workers are being fired. The governor has declared a
9 statewide drought and a state of emergency in nine counties
10 in Central California. You know, and it's pretty scary.

11 I'm just going to say one thing here, I'm not
12 going to get into it but, you know, you need to be a little
13 wise as to what's going on nationwide, not just in our
14 little isolated paradise here, because water drought is a
15 serious climate change issue. And I want to point that out
16 because, you know, people tend to think, oh, it's just a
17 summertime thing here and it's going to be over, and why
18 should we take these drastic measures.

19 In California the drought that they're
20 experiencing right now is the worst drought in 500 years.
21 Since the Dust Bowl. The Colorado River is at its lowest
22 point in history, and 90 percent of the water that services
23 consumers in San Diego comes from the Colorado River. San
24 Diego, needless to say, has very strict water use
25 restrictions. The Governor of California issued a state of

1 emergency and did a proclamation, and I just want to point
2 out a couple of things there within his proclamation so you
3 can understand the seriousness of what we're dealing with.

4 Southern California has received only 20 percent
5 of its normal rainfall in 2007, and even less in 2008. That
6 means an 80 percent reduction in the amount of rainfall that
7 they normally get. Northern California is experiencing the
8 driest spring on record, ever. And with many communities
9 receiving less than 20 percent of their normal rainfall.
10 That means -- I mean that's shocking. And these figures
11 are for the last two years, Members, 2008 into what are we,
12 August? So the Sacramento and San Joaquin River basins are
13 41 percent below their average.

14 So that's all I'm going to tell you about
15 California, but they have a really serious situation. And
16 it's not just a one-time thing, you've got to look at this
17 in terms of long-term sustainability. We are experiencing
18 climate change.

19 Watering restrictions in Long Beach, San Diego,
20 the East Bay. San Francisco has an ordinance that restricts
21 how much water can be dedicated in new developments. Only
22 so much of the footprint can have water-consuming
23 development on it, landscaping, pools. I don't think pools
24 is a problem in San Francisco, but East Bay golf courses
25 have to cut 30 percent of their watering. That's

1 California.

2 Florida. Florida has been in a drought for the
3 last five years. They've had very extreme watering
4 restrictions there. And I'm not going to go into all of it,
5 but they have -- I would say most of Florida, most of
6 Florida. Maybe I can show you a picture of the Southwest
7 Florida water district. They have something like 16
8 counties, and they have austere restrictions. I thought
9 I had my map real handy to show you.

10 What I'm going to do is maybe pass these down and
11 you guys can look at them. I have copies of ordinances,
12 notices, you know. They have severe restrictions in Palm
13 Beach, Florida.

14 So I wanted to bring this up because I think Palm
15 Beach is very comparable to Wailea, Makena, and some places
16 in West Maui where you have high-end housing with extensive
17 landscaping. Palm Beach, Florida you can landscape twice a
18 week, I mean you can irrigate twice a week. And their
19 restrictions on when you can do that, from 4:00 pm until
20 midnight, period. In Palm Beach you cannot have any water
21 features unless they're recycled, and they can't be potable
22 water.

23 In some places in the St. John's River Management
24 Area -- I wish I could show you this map, if I can find it
25 real quick, because it's like, it's like a third of Florida.

1 It's all the West Coast -- not the West Coast, the East
2 Coast. All the coastline of Florida above the swamps. And
3 there's two counties that have one day a week watering
4 schedules.

5 And also Florida as well as other jurisdictions
6 put this restriction across the board for all water users,
7 not just for the municipal users. The water comes from the
8 same source, whether it's privately distributed, pumped and
9 distributed, or done publicly through a municipality. It
10 all comes from the same source. So why should the public
11 consumers have a restriction that the private users don't,
12 when their straws are all in the same bucket? So it applies
13 to all water, brackish, surface water. In Florida's case
14 that means -- they call them canals. All water except
15 reclaimed water, because everything is coming from the same
16 source.

17 Honolulu, they also have drought conditions, and
18 their drought restrictions also apply to private wells. I'm
19 telling you this because that's the direction I'm going
20 here, and I want to show that there's legal precedent.

21 In Georgia -- hang on, you guys -- Georgia has
22 been in such an extreme drought that they have banned all
23 outdoor watering, period. And they have some exceptions,
24 irrigation for your personal food garden, golf course
25 irrigation using reclaimed water, you know, on and on.

1 Irrigation of golf course tees. You can water your tee, so
2 you can still play golf. But there are various exceptions,
3 exemptions. But the exemptions are from 12 a.m., in other
4 words, from 12 midnight to 10 a.m. Very restrictive.

5 There's also restrictive conditions in Texas. In
6 some places in Texas they even tell you how many -- not only
7 the time that you can water, between this time and this
8 time, but you can only water for so many minutes. We're not
9 doing that.

10 New Mexico, Santa Fe. They have, you know, this
11 is -- we're not reinventing the wheel, is what I'm trying to
12 tell you. This has been implemented across the nation.

13 The State of Washington. The State of Washington,
14 we all think of it, Spokane, as being so green. They have
15 watering restrictions. Their restrictions are -- I'm sorry
16 I didn't highlight this. I think their restrictions are
17 twice a week also. No, I'm sorry, their restrictions are
18 every other day.

19 Oh, here we have Nevada. Nevada you can water
20 three times a week, but you can only water for four minutes
21 on your day, three times during the day. Think about what a
22 nightmare that would be for your sprinkling system. On your
23 day to water you get to water three times on that day, but
24 for four minutes each time, so you'd better space it out.
25 Nevada, Las Vegas. Many areas one day a week in Las Vegas.

1 North Carolina and South Carolina have water
2 restrictions. In fact, April of this year specific
3 communities in North Carolina have cut down their watering
4 to once a week, once a week, and you can only wash your car
5 twice a month.

6 Minnesota, if you can believe that. Minnesota has
7 every other day watering. Pennsylvania. They actually have
8 a ban on the use of fresh water for irrigation and watering
9 of outdoor gardens, landscaped areas, trees, shrubs, and
10 other outdoor plants. A total ban. They also ban the use
11 of any water for ornamental purposes, including fountains,
12 artificial waterfalls and reflecting pools. Pennsylvania.

13 Okay, that gives you an idea, Members, of what the
14 situation is nationwide, and why it's important for us to be
15 wise in the use of our water. And, you know, you may think
16 we live in paradise, but a lot of you people live in a
17 desert, and we need to start respecting the climate that we
18 lived in, that we live in, instead of artificially changing
19 it to meet some kind of perception that sells well, because
20 we all have to live here.

21 And those of us who live in Wailuku and Kahului
22 and Upcountry who have brown lawns and use 300 to 400
23 gallons a day should not have to watch people in arid areas
24 use 1,000 to 2,000 gallons a day to keep their property
25 lush. That is wasteful. So if you have to make some

1 lifestyle changes, so be it. There is plenty of options out
2 there. And if you can't make the change, get your hose in
3 hand and water it by hand, because that is also a
4 conservative way to use water.

5 So, Members, in our last meeting we were concerned
6 about the Parks Department, and I think maybe I'm going to
7 turn this over to Director Horcajo and let her give us a
8 brief summary of their efforts. And then maybe Mr. Eng, or
9 Director Eng might want to talk something about the need for
10 doing this. We all saw this article in the paper today.

11 And I might let you borrow this, Jeff, for your
12 talking points.

13 Ms. Horcajo and I had a nice discussion, and I
14 really want to thank the Parks Department for not only the
15 efforts that they've taken -- they've been proactive and
16 they've been working on this for several months -- but that
17 she dropped everything when I talked to her the first of
18 last week about this bill, and got to me, and it's in your
19 binders, the schedule of watering that the Parks Department
20 is using, and we have adjusted our bill to meet their needs.

21 So if Director Horcajo could please explain to the
22 public what you're doing. We don't want them to think we're
23 asking them to do something the County is not already doing.

24 Director Horcajo.

25 MS. HORCAJO: Thank you, Chairman Anderson

1 and Members of the Water Resource Committee.

2 We have taken this conservation effort very
3 seriously, but I do want to say we really enjoyed the rain
4 yesterday. And all of our parks are just perking up this
5 morning, so it really was nice to see that rain.

6 Back in May, late May, the Mayor had requested all
7 the departments to look at a conservation plan for their
8 department, and that's when our Parks Department went to
9 work. And with the upcoming summer we looked at three
10 areas, water, electricity and fuel. I'll just speak on the
11 water a little bit today, and if you have other questions I
12 can get you copies of what our input was.

13 But the water, watering for our County has been
14 cut by 20 percent to date. We only have six irrigators on
15 our, in our County, and one on Moloka'i. So even though our
16 plan, which is to restrict watering between the hours of
17 7:00 a.m. and 6:00 p.m., we've been trying to get that in place
18 since early June just with the manpower that we have and the
19 retiming of the schedules.

20 So that is our current procedure. And most of our
21 parks are watered more than two days a week right now,
22 sometimes up to four or five or even six days a week,
23 depending on the schedules.

24 We do appreciate, we did give the Committee the
25 information that we feel that four days a week would provide

1 a safety factor. Most of our playing fields are large
2 fields we don't quit using until 10:00 p.m., so therefore
3 the watering does need to start later in the evening and
4 have time to hit all of the circuits going all the way
5 through. So it will be a challenge for us to implement a
6 new procedure, but we're currently from 9 to 6 p.m.

7 We are implementing an aggressive repair system
8 for all the water leaks that we've identified in the parks,
9 and a good example is at 4th Marine System -- 4th Marine
10 Park. We are changing out the irrigation system because
11 there are so many leaks up there. But in all of the
12 parks -- and we're posting our park watch signs, which also
13 give the community an indication to please call us if you
14 see a water leak, we want to know about it. We're hopefully
15 going to be on top of it. We don't have staff in every
16 park, so we need your eyes and ears.

17 We also get calls quite often of sprinklers that
18 are going on the road or in other directions. That is
19 helpful for us, but to let the public know that when the
20 winds change or water changes we can't always -- it can't
21 always be addressed on the grass. If there's a Kona wind it
22 will sprinkle on the other areas. So the advertising, the
23 call-in system, we are putting signs in the park for that.

24 We are also restricting use of water related
25 amenities in our parks, such as the water slides. All of

1 the vendors have been called, received letters, and have
2 been informed of these new restrictions. And the faucets in
3 the park have been turned off.

4 The PALS program did cancel their Summer Splash
5 Day down from War Memorial Park, and we did provide other
6 activities to them for them, with them. Again, we didn't
7 want to be an exception to the rule for the community out
8 there.

9 We are recycling all of our water that we're using
10 in vacuuming our pools, which was not a practice previously.
11 We are implementing and we've implemented a shower rule in
12 all of our pools.

13 We're in the process -- that was kind of
14 short-term items. We're in the process in long-term of
15 replacing our mechanisms for push buttons for our showers.
16 We're beginning at Kamaole II and DT Fleming Park. And
17 we're installing --

18 CHAIR ANDERSON: That would be an automatic
19 shut-off?

20 MS. HORCAJO: Yes, it will be. These are
21 very expensive to re-outfit some of our showers, so as our
22 budget allows we're just trying to replace them in a
23 systematic way that makes sense for us.

24 CHAIR ANDERSON: Okay, Director Horcajo, I'm sorry
25 to interrupt you but, you know, maybe the Public Works and

1 Facilities Committee could have you guys come and explain
2 your whole conservation program. We need to just focus on
3 how your watering schedule affects the irrigation bill that
4 we're looking at.

5 And Members, if you'll see, you know, the handout
6 that she gave us, you know what I thought was so shocking to
7 me is how many of our parks use potable water. I thought
8 there were so many other parks than there are actually using
9 brackish wells. But because of the -- and if you look at
10 the last page, all the footnotes that Director Horcajo put
11 in for us, it shows all the various parks that need to have
12 an additional two days to meet their watering schedule.
13 Because they move these sprinklers around, they move staff
14 around, and we want to make sure that the playing fields
15 survive.

16 So that's why I changed the bill to put in a
17 provision to allow the Parks Department -- what did I say,
18 playing fields and golf courses have four days to irrigate
19 during the restricted times.

20 And if maybe, Director Horcajo, Waiehu Golf Course
21 requested an additional two days for the greens. When
22 they're saying additional, they mean to what we originally
23 had, two days. They wanted an additional two days for the
24 greens and one extra day for the roughs and fairways.

25 And since you have your Director of Golf, maybe

1 you might want to introduce both of the gentlemen and see if
2 they would like to have any comments and if any of our
3 Members would like questions. They've been doing this for
4 how long now?

5 MS. HORCAJO: Well, we initiated this plan in
6 June, and it's still between working with staff rotating the
7 schedule, we're still getting it down.

8 CHAIR ANDERSON: Okay. So maybe this is a good
9 time to ask a few questions. They came all the way over
10 here to be here, and I think we should give them the
11 opportunity to make a comment and also any questions,
12 especially from our golf Council Member.

13 MS. HORCAJO: On my far right is Francis
14 Miyazono. He's the head of our maintenance section who has
15 the irrigators under his division with all of the pumps, and
16 Mr. Ron Kubo is with the Waiehu Golf Course. So if you have
17 questions, please we'd like to try and answer them.

18 CHAIR ANDERSON: Well, you know, I'll just open it
19 up, because I can tell they're both shy. They're not going
20 to offer any comments unless I ask a question.

21 How is the, how is the program working for you
22 right now as it is with the four days a week or the program
23 that you currently have? Is it working okay for you?

24 MR. MIYAZONO: Well, Madam Chair, presently it's
25 working out for us right now. Our main concern was the

1 athletic fields, but because of the safety factor, and I
2 think you've addressed that very nicely, and we can live
3 with your bill.

4 CHAIR ANDERSON: Okay, great. Thank you.

5 And then for the golf course?

6 MR. KUBO: At the golf course the watering four
7 days at the minimum is sufficient.

8 CHAIR ANDERSON: And were the time restraints, the
9 time restraints okay for you too?

10 MR. KUBO: Yes. We always water at night because
11 golfers are there all during the day, so the only time we
12 can water is at night. So we start at around 6:30.

13 CHAIR ANDERSON: Right. Okay. So, you know, if
14 you can say it's working all right for you, and here we are
15 in the hottest time of the year, that should say something.

16 Members, any questions? We will start with Mr.
17 Pontanilla and then Ms. Baisa.

18 COUNCILMEMBER PONTANILLA: Thank you, Chairman.
19 Mine is not so much about the golf course but --

20 CHAIR ANDERSON: Well, whatever.

21 COUNCILMEMBER PONTANILLA: -- the Little League
22 playing fields. You know, I've been to the Little League
23 fields this past weekend and, you know, like Mr. Miyazono
24 has said, I think we need to keep those fields in good
25 playing condition because we do have youngsters from age

1 five that are now playing T ball, and when that ball hits
2 that solid ground it bounces, you know, all kind ways.

3 And I think one of the things that we need to
4 really keep in mind is that safety is a big factor in
5 playing fields. And I appreciate, you know, going from two
6 days to four days. Even six days would be good.

7 The question that I have for the Department is
8 that, you know, I know you use brackish water for
9 irrigation, and if there's any problems in regards to
10 pumping that, you know, pumps are replaced and maintained on
11 the schedule so that -- you know, I pass by Keopuolani Park
12 and I've talked to Tamara last weekend in regards to the
13 condition of the park. Here we have the jewel of a park
14 that is not so jewel at this time because of the drought
15 condition.

16 But, you know, if you do have equipment breakdown,
17 such as pumps that, you know, replacement is done on a
18 timely basis so we can get our parks, you know, in a manner
19 that is, you know, pleased to look at as well as, you know,
20 safe to play on. So I thank the Parks Department for doing
21 all they can. Thank you.

22 CHAIR ANDERSON: Thank you, Mr. Pontanilla.

23 You bring up a good point that I wanted to
24 mention. Many of these jurisdictions have a provision for a
25 variance, and it's normally used for some kind of extreme

1 situation that may not work out. And I don't mean extreme
2 like a golf course.

3 But, you know, I haven't seen any of the variances
4 to know what they were issued for, but I do know that they
5 have a provision for a variance. And maybe we might want to
6 put something in our bill that would allow for an emergency
7 condition. Like you just said, you know, if they need that
8 extra day.

9 Because and as Ms. Horcajo -- I'm sorry, I don't
10 know if this was in our personal conversation now or if you
11 said this in the meeting -- but there may be times when an
12 event is happening and they have to change around their
13 schedule and, you know, maybe they would have to water a
14 fifth day.

15 But as you noticed in the bill, we're not
16 restricting them to specific days, like Monday, Wednesday,
17 we're giving them the lead. But we just want the public to
18 be aware that they are already doing conservation measures.
19 And if they are watering four times a week, it's necessary
20 to keep our athletic fields healthy. Because they don't
21 just sit there and grow, like a plant or a lawn does, you
22 know, they get heavy use.

23 Ms. Baisa.

24 COUNCILMEMBER BAISA: I wanted to comment, rather
25 than really ask a question. I wanted to say thank you. You

1 know, it's wonderful when we have an issue and we sit down
2 and try to figure out how can we help and work together.
3 And this is a wonderful example, and I want to thank you.
4 Because if everybody sat down and tried to figure out how
5 can we help and how can we make this work, we might not need
6 to make such strict rules. But, you know, a lot of it is
7 just awareness and being willing to, like you said, Chair,
8 to change.

9 CHAIR ANDERSON: Right. And again, it's
10 really refreshing to work with a department who is
11 responsive, you know. Ms. Horcajo, like I said, dropped
12 everything and got this schedule to us within a day, and we
13 were able to change the bill that very day. So that what
14 you have in front of you now is more realistic and, you
15 know, addresses their needs as well as still providing for
16 conservation.

17 So I wanted to give -- we're already out of time.
18 I wanted to give Director Eng an opportunity to speak to us
19 about the need for this kind of conservation and what's
20 happening right now with our water resource.

21 Director Eng.

22 MR. ENG: Thank you, Madam Chair.

23 I really appreciate what the Chair indicated in
24 her introduction to today's bill and discussion. I'd like
25 to reinforce what she stated, that this is not a drought

1 bill. This is what I also view as a lifestyle bill. A
2 lifestyle on which, you know, we won't be wasting water in the
3 community.

4 If you want to address drought, that will be
5 different. And I see down the road an additional effort
6 maybe looking at some emergency drought water rates. But
7 the things that this bill is introducing is really the first
8 step in what we should have had years ago. It is taking us
9 in the appropriate direction. I think it will also just add
10 to really what the community has been doing in the past
11 year.

12 And I'd like to be the first to admit and to thank
13 the community for conserving as they've been doing. You
14 know, we sent out our pleas to the community about a year
15 ago when we realized that we were, well, the demand for
16 Central Maui was somewhere around 28 1/2 million
17 gallons per day. And even looking at our 12 month moving
18 average at that time, it was heading in a direction that I
19 really was worried that would be out of control.

20 And the community has really done their part. Not
21 only, as you can see, their average day demand even now is
22 to, you know, like 10 percent less. But mostly their 12
23 month moving average, which really shows the direction we're
24 going and heading, has been reduced by about a million
25 gallons per day. And that is quite an effort, given that we

1 only had our pleas to the community.

2 So all of these new water conservation, irrigation
3 restriction ordinances are clearly something that we need.
4 Other communities or most communities have in place already.
5 And this is really just a first step. I think it's really
6 the appropriate first step to take. Thank you.

7 CHAIR ANDERSON: Thank you, Director Eng.

8 You know, like I said, Members, this is just the
9 first step. There are many other things that could be done,
10 many other areas that are already way more restrictive. You
11 know, we could put out planting plans, go around and do
12 water audits.

13 There is a whole section in the Water Use and
14 Development Plan that addresses demand side management, and
15 that's really what this is. But it's also a long-term
16 effort to go and audit somebody's water use, commercial, or
17 say a hotel and say, you know, here's a way that you could,
18 you know, better -- make better use of the water that you're
19 using. And put in all kinds of high tech things like, what
20 do you call, sensors, rain sensors and all that kind of
21 stuff. But that's also costly and time consuming. We need
22 to do something that is easy to do and quick to do and
23 doesn't cost you anything. In fact, it will probably save
24 you money.

25 And, you know, for the public who is listening,

1 just to let you know, this is not something that we've just
2 come up with, you know. We had the nation's expert here in
3 February talking to us about this and giving us all the best
4 information that's out there. We have had experts advising
5 us, and she tells us that people typically over-water. It's
6 kind of like a habit, you know. People typically drive five
7 miles an hour over the speed limit. It's just a habit, it's
8 not so much that it's necessary.

9 And, you know, try it. And if it doesn't work for
10 you, get out there with your hose and enjoy your lawn and
11 your yard, instead of sitting in the house watching
12 television and letting the sprinklers do the job. Go out
13 there and be part of your yard, and maybe that is a way to
14 reintroduce you to the landscaping that you have, if you
15 have to go out and hand water it now and then.

16 I do want to point out that in Ms. Vickers'
17 presentation she pointed out to us that in Boston several
18 years ago they looked at their water budget and they
19 recognized that in order to meet their demand, their current
20 demand and their future growth, they had to put \$400 million
21 towards new source development. And what did they do? They
22 instituted the demand side management and put in a
23 conservation program, and their conservation program is much
24 more extensive than what we're doing. They spent \$40
25 million on it, put in low flow fixtures everywhere, did

1 water audits. A long-term conservation program that
2 hopefully this County will get to. But their demand went
3 down 35 percent.

4 People, you know, learn. Sometimes when you force
5 them to, they'll learn new habits, and they'll find that,
6 you know, you don't need to water as much as you do. And
7 maybe you don't -- maybe you can replace that high demand
8 plant with another plant that's just as nice and could look
9 even just as tropical. That's another thing that we're
10 going to get to, is the planting program that the County
11 already has, to give people options.

12 So, Members, I appreciate all your patience today.
13 I think we got a lot of questions out and moved in the right
14 direction. Hopefully at our next meeting I'll have two
15 fresh bills for you.

16 Any of you have any comments on the irrigation
17 bill that you would like to see different than what you saw
18 today, please get in touch with me, we will make some
19 changes. We want to move on this at our next meeting.

20 Anybody have any further comments? Parks?

COUNCILMEMBER PONTANILLA: I got one.

21 CHAIR ANDERSON: Mr. Pontanilla. And then I'll let Ms.
22 Horcajo speak.

23 COUNCILMEMBER PONTANILLA: I just want to thank
24 you for bringing up these two proposed ordinances. But I
25 have a more like challenge maybe to the Parks, Environmental

1 Management, as well as the Water Department, because we have
2 a jewel of a park in Keopuolani Park.

3 You know, I've been advocating for I don't know
4 how many years now that we utilize the recycled water from
5 the treatment plant. You know, I understand that there's
6 this construction that's going on right now, and you know, we
7 kind of missed the boat in putting in the gray line. But again,
8 the cost, you know, is something that I don't know anything
9 about. But maybe --

10 CHAIR ANDERSON: You mean getting it from the
11 treatment plant to the park?

12 COUNCILMEMBER PONTANILLA: Yeah. Maybe, you know,
13 the line that is being replaced can be rehabilitated so
14 that, you know, what needs to be done is probably putting in
15 a sleeve in the existing pipe to bring that recycled water
16 to Keopuolani Park. But again, I don't know the cost.

17 CHAIR ANDERSON: Well, let's let Ms. Horcajo answer
18 you, because I think she knows. She was telling me they
19 looked at the same thing, putting a dual line to Kanaha
20 Park. And it was like -- just for that short area it was
21 like what, a million dollars? So maybe she knows for
22 Keopuolani Park.

23 COUNCILMEMBER PONTANILLA: Okay, fine. Thank you.

24 MS. HORCAJO: Those are the two areas,
25 because of the replacement of the current sewer line we did

1 contact Wastewater and see if we could work a deal with them
2 as well as Kanaha, and the prices were about a million
3 dollars for each. I don't have the breakdown, I'm not sure,
4 but we would like to pursue that as well.

5 COUNCILMEMBER PONTANILLA: Thank you. Kind of too
6 late for the new construction, but if you can utilize the
7 existing pipe coming back to Keopuolani Park, maybe as an
8 alternative to having recycled water to water the parks.

9 I understand that some of the -- I don't know
10 about Iron Maehara, as well as the stadium, if they are utilizing
11 the brackish water for irrigation or potable water. So it does
12 show exceptions. Thank you.

13 CHAIR ANDERSON: Thank you.

14 MR. ENG: Madam Chair, if I may clarify
15 something that Mr. Pontanilla brought up. An additional
16 hurdle to using reclaimed water for the parks from the
17 Kahului plant is that the Kahului plant would need to be
18 retrofitted. It doesn't produce R-1 at this time.

19 COUNCILMEMBER PONTANILLA: Yeah. I understand that,
20 yeah.

21 CHAIR ANDERSON: It's only the South Maui plant
22 that provides R-1 water.

23 MR. ENG: And Lahaina.

COUNCILMEMBER PONTANILLA: And Lahaina, yeah.

24 CHAIR ANDERSON: And Lahaina. So again, it's all
25 about cost-effectiveness, right?

1 COUNCILMEMBER PONTANILLA: Exactly.

2 CHAIR ANDERSON: So maybe we can work towards
3 getting some numbers. We need to know how much water we're
4 talking about. Is it cost-effective to spend the money? Is
5 it brackish water they're using now or fresh water? All
6 those unanswered questions.

7 Members, I just want to say one thing in closing,
8 that one of our dedicated professionals with *Akaku* who has
9 been with the crew downstairs filming us day-in and day-out
10 for many, many years is returning to the mainland. His name
11 is Neal Snarr. And I just want to thank him for all of his
12 service. He's always been very responsive to any of the
13 needs that we have while they're filming *Akaku*. We're going
14 to all miss him, and I know the people at *Akaku* will miss
15 him too. So thank you, Neal.

16 Members, thank you for this very informative
17 meeting. I appreciate your patience. The Water Resources
18 Committee of August 4th is now adjourned. ...(gavel)...

19 ACTION: DEFER PENDING FURTHER DISCUSSION.

20 ADJOURN: 12:15 p.m.

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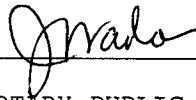
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C E R T I F I C A T I O N

I, JEANNETTE W. IWADO, Notary Public for the State of Hawaii, certify:

That the proceedings contained herein were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

Dated the 19th day of August, 2008



NOTARY PUBLIC, State of Hawaii

My commission expires 2/5/08