

**WATER RESOURCES COMMITTEE**  
Council of the County of Maui

**MINUTES**

**November 17, 2008**

**Council Chamber**

**CONVENE:** 9:06 a.m.

**PRESENT:** Councilmember Michelle Anderson, Chair  
Councilmember Michael P. Victorino, Vice-Chair  
Councilmember Gladys C. Baisa  
Councilmember Danny A. Mateo  
Councilmember Joseph Pontanilla

**STAFF:** Kim Willenbrink, Legislative Analyst  
Clarita Balala, Committee Secretary

**ADMIN.:** Jeffrey K. Eng, Director, Department of Water Supply  
Ellen Kraftsow, Planning Program Manager, Water Resources and Planning  
Division, Department of Water Supply  
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the  
Corporation Counsel

*Seated in the gallery:*

Roy Silva, Executive Assistant, Office of the Mayor  
Mahina Martin, Public Information Officer, Office of the Mayor

**OTHERS:** Alice Lee, Alice Lee LLC Consulting  
Ron Montgomery, Kula Community Association  
Warren Watanabe, Executive Director, Maui County Farm Bureau  
Kimokeo Kapahulehua  
Jocelyn Perreira, Executive Director, Wailuku Main Street Association/Tri-Isle  
Main Street Resource Center  
Charles Jencks, Honua`ula Partners, LLC  
John Andersen, Na Hale O Maui  
(19) additional attendees

**PRESS:** *Akaku: Maui Community Television, Inc.*

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**CHAIR ANDERSON:** ...*(gavel)*... Good morning. Welcome to the November 17<sup>th</sup> Water Resources Committee meeting. With us this morning we have Members Victorino, Pontanilla, Baisa, and Mateo. Thank you, Members, for being here. Also, with us this morning is Water Director Jeff Eng.

**MR. ENG:** Good morning.

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CHAIR ANDERSON: Good morning. Deputy Corporation Counsel Ed Kushi Jr.

MR. KUSHI: Good morning.

CHAIR ANDERSON: Good morning, Ed. And from our Staff we have Kim Willenbrink, our Analyst, and our Secretary, Clarita Balala. Thank you all for being in attendance and for those who have come from the community we appreciate your attendance.

**ITEM NO. 16 DEVELOPMENT OF NEW SOURCES OF WATER (C.C. No. 05-319)**

CHAIR ANDERSON: I'm going to open up with some explanations of the bill, some worksheets for backup information, and then we will have public testimony. I want to apologize to the Members and the public, first of all. There are percentages in the bill, as posted, that didn't reflect the actual percentages, and I'm sure it upset quite a few people. But the reasoning behind that was strictly a time constraint for our posting deadline, and we didn't have time to go back and reorganize the percentages until after the bill was posted. So, they have now been done and there is a new bill. Any of you in the audience who haven't got a copy of the bill with the updated percentages there's a copy upfront, as well as the worksheets to substantiate these percentages.

So, I just want to...before we go over the bill real quickly, I just want to give everyone an understanding of the intention behind this bill and the reason we're taking these measures. First of all, water allocation is a function of our Water Use and Development Plan. Our Water Use and Development Plan has not been finalized and updated for the last 19 years. We're currently working on an update and I spoke with the consultant who's doing the work and he anticipates it shall be done for Council review hopefully by June of next year. The, the provisions in this bill will sunset when the Water Use and Development Plan gets adopted.

So, the idea being behind this bill is until we have a functioning Water Use and Development Plan that has been accepted by the Council and the State Water Resource Commission, there is a need to fairly allocate new sources of water that come onboard. And this is a policy decision by this, this body. In the past, it's always been first come, first serve. And because we are depleted of, of water at this point, any new sources that come online there's going to be a lot of competition to use up that source immediately. And we want to make sure that there's water available for any new sources that come online for affordable housing projects that our nonprofits are working on right now. And some are ready to go but they have no water. So, we want to make sure that they get their fair share of this one million gallons of new water source.

We also want to make sure that we put water aside for the new Kihei High School. We have been waiting decades to get a high school in South Maui. It's the only district in this County that doesn't have its own high school. And we now have the funding to

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begin that and it would be a shame not to be able to go forward with that school if there isn't water available for them. So that is the intention behind this so that we can have equitable, equitable distribution, a fair share distribution for all water users until we get our Water Use and Development Plan. And in that plan this body has the authority to make the allocations and to hopefully set aside water specifically for affordable housing so it gets a priority use.

What I've handed out and I hope you people in the audience have it. Before I go into the bill, I'm just going to explain these charts. This large handout is the historic consumption of water by class from 1994 up to 2007, and we will be using the very last column, the most current consumption percentages. These percentages are based on the actual water use from the County system. These figures were derived from the Department of Water Supply's own billing statements. So, this does not include non-potable water. It does not include private water systems. It's only the County's systems so that you can see what the existing breakdown of water use is for each classification of use: Single-Family, Multi-Family, Commercial, Hotel, Industrial, Government, Agriculture, Religious Institutions, and we have Other of which I'm not sure what Other is. So maybe Ellen can tell us that later or even the Director.

For those who might be confused a little, I'm just going to...I got a letter...one of our testimonies from the Hotel Association. They don't seem to understand the difference between Commercial and Industrial. Okay. Industrial is...requires a separate zoning classification than Commercial. So, Commercial would be anything that has a Business zoning and Industrial would be anything that has Light Industrial or Heavy Industrial. Is that the term, Ed, Heavy Industrial...zoning? And those of course would be manufacturing, those types of uses. Commercial is basically retail and that kind of use.

Multi-Family is basically a term we use for Apartment zoning. So, if you were a condo, you would fall into that category. Government, Government is basically all the water use that our County government uses or State government uses for schools, County services of any kind, and I believe that includes parks. Is that correct, Director? Government is classified as...our parks are classified under Government.

MR. ENG: Madam Chair, I'm not certain what comes under Government or how parks is classified.

CHAIR ANDERSON: Yeah. Okay. We'll ask Ellen that, but I think my memory serves me that's what it is. And then Agriculture, this is potable use for Agriculture. And then this is just to give you a historic background. And in trying to be fair in setting these percentages I used that historic percentage and you'll see that in the new bill. The only percentages that are changed at this point in time, Members, is I took the water necessary for affordable housing and DHHL who has priority use of water by the Constitution out of Single-Family and made classifications of use for DHHL and 100 percent affordable and then all other Single-Family gets the rest.

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So, the other chart I want to bring to your attention is this document. It has...document transmittal form on the front and it's entitled, "New Water Source Allotment Per One Million Gallons". So, I think to explain the percentages it's very helpful to look at this, because you can see each water system has a total allotment of one million gallons. This would be new source. And then it breaks it down by percentages and gallons per day. So, you can see that...and I just, I want to make this very clear so people understand how this was derived and the Members can also understand that none of this is set in stone, that if you want to move these numbers around, that is your prerogative. So, and before I go on let's just remember that some of these categories may not transfer the percentages allocated to these, to these categories, historically may not transfer into the future.

According to our consultant on the Water Use and Development Plan, they pretty much...he pretty much thinks that the percentage breakdown per class is going to transfer into the future. So, let's just say Central under Hotel. Hotel gets 10.2 percent of our total water allocations right now and this is historic. This goes probably way back to 1970. But for the purposes of our chart you can see that as of 1994 it was 10.4 and it's now 10.2. So, it's a lesser use. I don't think we've had any new hotels come online since 1994. But are we going to have as many hotels into the future as we do right now in South Maui? Probably not. So, we may not need that much of an allocation.

So, it's up to the Members to look at these percentages and if you want to take a bit from each one that is a historical use and put it into affordable or any other category for the purposes of new source use that is our prerogative. I only use this as a basis and a actual use figure to work from. So, back to this, this chart. The 19 percent for DHHL which gives them 190,000 gallons per day out of the million gallons of new source is based on 317 units, that's 600 gallons per day. That 317 units is the current DHHL plan for future homes, in the near future, in the Central Maui area, which I believe is basically Waihee. So, I used that figure.

The 12 percent for 100 percent affordable housing and I think I should define affordable housing for everyone. This is 100 percent affordable housing which is defined in the bill means an affordable housing project that is not part of a larger development and contains only residential workforce housing units that are sold or rented to residents within one or more of the following income, income groups as defined in 2.96 of this Code: very low income, low income, below moderate income, or moderate income. So that's 120 percent and down of the income groups for affordable housing. And by standalone or not part of a larger development, this is primarily targeted to 100 percent affordable housing projects that are being done by our nonprofits or anybody else. Na Hale O Maui – people who are devoting their time and attention to develop specific affordable housing projects for our, our resident population.

As we know, the Workforce Housing Policy that was adopted is a requirement of market price housing. So, I didn't want to include that because you're going to have market price housing attached to the affordable housing and that would take up probably the

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whole million gallons or more. And we want the nonprofits to have a shot at this. And, you know, if somebody is building...a thousand home, a thousand market-price homes, they pretty much have to come up with their own water in the current situation that we have right now. So that is the reasoning behind that, Members.

As we go on down this chart I just want to explain a few other things. The other...basically, what we did is we took that 19 percent and 12 percent out of the total 42.8 percent that's currently being used by Single-Family housing. We might want to take some of it out of Multi-Family because a lot of the affordable housing is Multi-Family housing. But I did it this way for simplicity so you could see exactly where the numbers are coming from and where they're taken from. So, the rest of these percentages...total Single-Family...All Other Single-Family is the difference between our historic use for Single-Family and these two categories that we deducted for Hawaiian Homelands and 100 percent affordable.

And then as you go down all the other percentages are basically the same as the historic percentages and that gives you 100 percent of the million gallons. Upcountry system is not going to be falling under this ordinance, because we already have an Upcountry priority list and that takes priority over everything. The West Maui water system basically what we did there different is that we took the existing Other Multi-Family use percentage and we divided it in half and put half of it in All Other Single-Family and half of it in All Other Multi-Family. And the reason we did that is because if we took the 19 percent for Hawaiian Homes and the 12 percent for affordable housing, it basically used up the historical percentage for Single-Family in the West Maui system.

Now, just so that you know the Department of Hawaiian Homelands is looking...has planned 1,610 units for West Maui. That would be 360 units for the Villages of Leialii and 1,250 units for Honokowai. Now, of course, we can't allot all that water for them at this time. I'm just trying to make a fair breakdown of a million gallons or any increment thereof of future water source. So, I just kept with the 19 percent for simplicity and for fairness. Then we move on to the Hana system. And you'll see that the Hana system was allotted 8.7 percent for DHHL. And that's because Hana only has 145 units planned in their systems district for affordable housing from, I mean from...for housing from Hawaiian Homelands. So, I reduced theirs to 8.8 percent to reflect the actual need in water, but then I left the affordable at 12 percent to allow for 200 affordable units in the Hana District. And I know Hana Ranch is planning some affordable housing there as well as nonprofits, and then all the other allotments are historic use. Now, for Molokai, DHHL has their own water source so I did not insert that in. I kept with the 12 percent for 200 units affordable and all others are historic uses. Lanai is not on here because Lanai is not a County system.

Okay. Now, I'm going to just real briefly go over the bill and then we'll open it up for testimony and then I'm going to have our Water Director give us some comment on the bill and then we'll open it up for questions from the body. Water system...well, I'm going...rather than read the definition for water system capacity I'm just going to read

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the bill. I think it's important for those who are listening to understand what we're doing. Mind you this is the public hearing to inform the public what we're doing. And I, and I would like to mention that there is an old bill, it's still a bill in effect in the County Code, 2.96 I believe it is, that is a water allocation bill that was passed back in 1991. And the purpose of that bill was to make a fair allocation of the remaining sustainable yield of any aquifer once it reached 70 percent of its yield having been--let's see make this--oh, 60 percent. What the bill required back then was that--thank you, Kim--it's 2.90A, what that bill required was that once an aquifer reached 60 percent of its sustainable yield that the Board of Water Supply would inform the Council and the Council would then allocate the remaining water...the remaining sustainable yield, the remaining 40 percent of the aquifers water specifically by community plan land use designations.

Okay. Now, the problem with that is it never happened. And I'm not going to go back and, you know, worry about spilled milk. But the point is is that specifically for our Central system we have reached 100 percent of the sustainable yield for some years, and so there is no function in this bill anymore until we maybe are able to tap an aquifer in the East Maui District and use its sustainable yield. And of course these are sustainable yields within the County system. So, I just want to bring that up because I don't want anybody to be confused that what we're doing here is an allocation of the sustainable yield. We're doing an allotment of new source of water. Okay.

And so the bill, the purpose of the bill is...states that, acknowledging that the waters of the County are held for the benefit of its residents and that they have right to have those waters protected for their use. The Council has determined that measures must be taken that will preserve and prioritize the equitable allotment of all new waters accepted into the County water systems. The Council recognizes that water is a limited resource and its development and use must be carefully planned so that competing uses will have fair share opportunities to utilize this public resource. Applicability, unless otherwise provided in this chapter the provisions of this chapter shall apply to all new water system capacity expansions under the control of the Department. Provisions of this chapter shall also apply to privately developed sources of water that come or are anticipated to come under the County's control, except those waters allocated to a private entity through a Water Source Development Agreement with a private entity as defined in Section 14.03.025 of the Code.

And I want to explain that. If the County currently has a Water Source Development Agreement with a private entity that in that agreement states that the private entity gets 50 percent of the water and then once it's developed and the County accepts the source to operate and maintain it, the County gets the other 50 percent of the source. So what this basically says is this will not interrupt any of those agreements or any future agreements. So that if a private entity is developing a source and they have a right through their agreement to 50 percent of the source, then these allotments will not pertain to their share of the source. They can use that source as they see fit. Okay. Is that clear?

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Then, allotment of new water sources. For every one million gallons or increments thereof of new source capacity added to a water County...to a County water system after December 31, '08 the following percentages of use shall be allotted. And these are basically the percentage that I just went over in this chart so I'm not going to read it. And I chose the December 31<sup>st</sup> date, Members, because by the time this gets...if we pass this out today and this is our only chance, this is our last meeting to get anything passed out of Committee to be adopted at first and second by the Council, and by then, and then it has to go to the Mayor. So, basically I used a December 31<sup>st</sup> date to...to put a cutoff date for new, a new water, because that's when this bill is likely to be adopted into law.

Okay. The expiration of this bill. Upon adoption by the Council and the Commission of a new Water Use and Development Plan this chapter shall become null and void. Basically, the Water Use and Development Plan will take primacy over this bill, because that's what we should be using for allotment or allocation of our water is a Water Use and Development Plan by percentages of a community...community plan land use designations. Now, I'm hoping that this body, I won't be here in the next term, but I'm hoping that the body sees the value in setting aside water for affordable housing projects and for DHHL, because it's the right thing to do, number one. By law we're supposed to be doing that for DHHL. And as far as the 100 percent affordable, we have people who are working on behalf of the population, the resident population in the nonprofit sector to get us 100 percent affordable projects and they have no other means to get the water. So, I'm hoping that we see the value in that in this bill and that when you guys adopt the Water Use and Development Plan you also set aside categories for water use in those two, for those two uses.

Now, amendments to percentages, no permit is defined in Chapter 2.90A of this Code and those are all permits including water meter permits, building permits, zoning entitlements, shall be processed for the use of a new source of water as of December 31<sup>st</sup>, 2008 for which the estimated water use through the Department's water system would cause the above percentages to be exceeded unless amended by the Council by ordinance. So, basically this is a tool for the Water Department in their allotting new water meters for a new source and they're basically the ones that are going to be implementing this ordinance. And if they find that someone comes in and wants to use a water source that exceeds the amount that's already been allotted in new source, say for Single-Family, and the Water Director can see that, well, say Upcountry, now mind you, I mean these are historic percentages in all other categories besides the two new, new ones we added. Say the Water Director can see that, well, we're not going to use an additional 3 percent towards Government use Upcountry for at least 10 years, because we already have all the community centers we need Upcountry, we already have all the parks we need Upcountry. He could come to the Council and say we want to take that 3 percent and put it into Single-Family, All Other Single-Family. And then if he can state the case, if a developer can state the case to any of the Council Members, they can also bring an amendment forwards. So, it's, it's flexible in that you can change these percentages if necessary, but you've got to justify especially if you're going to take water out of the affordable housing category.

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I think that is as clear an explanation as I can come up with right now. I'm sure that there will be more questions as testifiers come forward and the Members start their deliberation. So, Members, without any objection I'm going to open it up to testimony.

VICE-CHAIR VICTORINO: No objections.

CHAIR ANDERSON: Thank you. And Members, please, if any of you have cell phones, turn them off or put them in silent mode. . . .*(change tape, start 1B)*. . . Okay. Our first testifier is Alice Lee and she will be testifying on behalf of Alice Lee LLC Consulting.

**. . .BEGIN PUBLIC TESTIMONY. . .**

MS. LEE: Good morning, --

CHAIR ANDERSON: Good morning.

MS. LEE: --Madam Chair, and Members of the Water Resources Committee. My name is Alice Lee and I am testifying as an individual this morning. As with everything you do, Madam Chair, I know that you have the best intentions relative to the proposed bill. I'd like to share with you my own experience as a Council Member back in the '90s during, by the way, the last recession. And at that time we were facing challenges with sewer capacity. We, too, passed an ordinance, which reserved capacity for certain categories. The difference between then and now was that our ordinance was meant to be temporary while expansion of the sewer treatment plants were underway. So, we, we didn't just have a plan to, to deal with the issue, we had construction underway with regard to expansion. The results, however, of the ordinance was that some categories were not used and others were insufficient. It was almost impossible to predict which projects were viable enough to move forward and which were not regardless of prior practice and history.

Our ordinance, unfortunately, turned out to be unnecessary and ineffective. And in addition to the matter of idle capacity, we found that banks and other lenders were concerned and even reluctant about financing projects that may or may not receive capacity. Economic conditions are far worse today than in the '90s. We desperately need new projects to move forward so that our residents can not only buy affordable homes but keep them. I believe that the County's priority and focus should be developing new water sources. Finding ways to creatively finance these projects. I believe we should concentrate our efforts on providing the Water Department a crystal clear mandate to develop new water sources immediately and provide them with all the support and resources they need.

Plans are, are great but performance is supreme. We can't wait for the completion of the General Plan update. We can't wait for the passage of the Water Use and Development Plan, and finally, we can't wait for a decision from the State Water Commission or any

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other agency trying to tell us how to use our water. A sense of urgency is real. We really need something done now. Thank you, Madam Chair.

CHAIR ANDERSON: Thank you, Ms. Lee. I hope all of you read the article in Sunday's paper, and I think it clearly stated the reason that we are facing a crunch with water. It's not an easy thing to just go out and develop a new source. All the easy sources have already been developed. And in regards to the sewage treatment plant allocation for South Maui, you know, the, the Council did come in and affordable projects didn't come forward and they took water out of the Affordable category and gave it to Commercial. So, it is, it did function for its use and I think that, you know, if, if we're going to...if we're going to be able to keep the economic engine running with what little new water that we may have coming onboard, I think banks and financial institutions would feel secure in knowing that there is a certain amount of that water allotted for certain amount, certain types of uses so that one developer doesn't come in and buy it all up in water meters. So those are just my comments. Any questions by the Members? Seeing none, thank you, Alice.

COUNCILMEMBER PONTANILLA: Chairman?

MS. LEE: Can I . . .

CHAIR ANDERSON: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Alice, maybe you know this answer. Back in 1983, I think it was Mr. Norman Saito, made a study for the County of Maui and in that study he said that if we don't develop new sources by the year 2000, you know, this is now what we face today. You know you've been on the Council way back when, was, was there any priority in trying to look for new sources?

MS. LEE: Council Member, of course, and we did. We funded the development of new wells in Waihee. It turned out, however, that instead of 16 million gallons a day I think we...the number was whittled down to 8 million gallons a day. But during my time, which by the way I wasn't elected until 1989. . .

CHAIR ANDERSON: You're not that old. . . *(laughter)*. . .

MS. LEE: Yeah. '83, I was still giving birth to children. But, yes, indeed and we very aggressively looked for new water sources. And if I may comment on things that were said earlier, one of the reasons why when we tried to allocate uses for, for water, that became a moot point when the State designated the Iao Aquifer. So, we didn't need an ordinance for allocation anymore. We never probably got around to repealing that ordinance but it, it was...became null and void in a sense that it was no longer relevant.

And with regard to sewer...yes, we did change the, the capacity for the sewer allocation from, from affordable housing, which wasn't being used, to commercial which was there...which was having a demand there. But every time that you try and amend an

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ordinance or try and change anything legislatively, you know how long that takes. The market goes by, you know, you know, you have only so much time. And, and right now we're in such economic straits . . .

CHAIR ANDERSON: Ms. Lee, I'm going to cut you off because you're --

COUNCILMEMBER PONTANILLA: Yeah, I think you answered my question.

CHAIR ANDERSON: --testifying beyond the question.

MS. LEE: Okay.

CHAIR ANDERSON: Thank you.

COUNCILMEMBER PONTANILLA: And the reason why I say 1983 because when I sat in that office when I first got elected, you know, somehow I got, got a hold of a study that was done and that's the reason why I bring it up as a question to you. And, and I don't know if you guys ever took a look at East Maui Watershed at the same time but, you know, in the Sunday paper a lot of comments regarding the East Maui Watershed that was being proposed at the time. So, thank you.

MS. LEE: Can I just say something? Did you, did you say 1983 or 1993?

COUNCILMEMBER PONTANILLA: '83.

MS. LEE: '83.

COUNCILMEMBER PONTANILLA: When you was making babies.

MS. LEE: Yeah. . . .*(chuckled)*. . .

CHAIR ANDERSON: Okay. Thank you, Ms. Lee. Any other questions? Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. And thank you, Ms. Lee, for being here. Your testimony is much appreciated. We know you have a lot of experience in this Chamber. Thank you. You bring an interesting point up that you were trying to make and I'm interested in it because in amending...if we were to pass this ordinance and we wanted to amend it, it states that it has to be done through...through the Council by an ordinance. So, should an opportunity arise and we've used the percentage up in a category, then we would have to go through the process of bringing it back here. I think that's the point you were trying to make that your opportunity might go by?

MS. LEE: Well, the point I was trying to make is, yes, of course, you can amend or change any of the legislation you pass but it's very time consuming and there is no guarantee at the end of the day that the intent that you want is, is actually going to happen.

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COUNCILMEMBER BAISA: This also then brings back your point about banks being maybe a little leery about this.

MS. LEE: Financing, you know, is a premium today. If banks cannot get guarantees on whether or not you're going to have water capacity, then there's no reason why you would be getting a loan.

COUNCILMEMBER BAISA: And with the need to move ahead on housing projects and also the scarcity of money to be lent nowadays and the tough money market it might be something to think about. So, thank you very much.

MS. LEE: Thank you.

CHAIR ANDERSON: Any other questions? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. Ms. Lee, good morning.

MS. LEE: Good morning.

COUNCILMEMBER MATEO: And thank you for your testimony. I think you made it really clear the need, in your testimony, the need for the County to actually make the development of new source a priority. However, the reality, you know, as, as printed in the Sunday's paper from the Department that says that little new source will be developed in the near future. Can you tell me how that balances off with the, with today's economic demands, the reality that we're not going to see much new source development and your understanding of the market and the trends that you have just expressed to us? Can you share your comment on that?

MS. LEE: Yes. Substantial new sources will take time but what's knocking at our door right now is the, the construction, the development of the Waiale Treatment Plant, for example. Okay. I know that the County has been reluctant to move too quickly forward in this regard, because you have the State Water Commission still needing to pass a ruling. But oftentimes where, where their concern...where there is an impending decision by the State or an impending decision by the Planning Commission or the County Council, you can have processes move concurrently, you know. I highly doubt that the Water Commission is going to say you can't have any water. It's just a matter of how much they're going to decide will be for the County domestic use and for, you know, instream flows. That, that's it. And they seem to have been fairly reasonable in Haiku.

So, assuming all of that why can't we continue to move forward? You know why does the train have to stop until, until they make a decision? That's, that's my concern. Because, you know, I really would like to see the County take a leadership role rather than wait to react to this or wait to react to that. That's all I'm saying.

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COUNCILMEMBER MATEO: Thank you. Thank you, Chair.

CHAIR ANDERSON: Yeah, and just for the body's information, the, the anticipated use of nine million gallons surface water for the Waiale Treatment Plant, the Administration is proactive on that and A&B is developing the Environmental Impact Statement necessary for that use. So, they are being proactive. Our next testifier is...and I just want to point out, Members, to amend an ordinance takes six weeks. If there's a political will to change one of these categories to meet a pending need, six weeks and you've amended it. I mean there shouldn't be any debate if it's a...pressing need and there is somebody onboard that needs the water that's doing a project that will exceed the allotment. And there is a category that is just sitting there with water allotted and not being used and you're going to know that and certainly the Water Director is going to know that. You can come forward and amend this in six weeks time.

Our second testifier is Ron Montgomery. I neglected to say this but each testifier gets three minutes. Mr. Montgomery is with the Kula Community Association Board.

MR. MONTGOMERY: Thank you, Chair. I'd like to preface my remarks by saying that as a representative of the Board of the Kula Community Association I'm going to read this statement that we agreed to although some of the statements would have been modified or deleted based on the information that was presented this morning. I began my testimony with a quote from the famous poem, "The Rhyme of the Ancient Mariner", to reflect on the fact that Maui just as the ancient mariner is unable to quench its thirst for water although in the midst of vast resources. The hearing today on the reservation of new water source ordinance is an attempt to alleviate some of this thirst but it does not address the major issues. The root cause of our water shortages stem from a lack of planning and execution to provide additional and ample supplies of water to meet the growing needs of the County of Maui. This ordinance is an attempt to legislate a solution to mitigate the shortcomings of the management past and present of the Department of Water Supply.

What is good about the proposed ordinance? It is an opportunity to co-develop a water supply strategy with the DWS and private entities to develop and plan the use of any new water sources. It is a timely action that brings to life the State Constitution's outlook on natural resources and it recognizes the many different users of an important finite resource. What is not good about the proposed ordinance? It does not follow the Makawao-Pukalani-Kula Community Plan or the Kula Community Associations priorities for water. See the addendum on Page 3. It does not take into consideration the existing Upcountry water meter waiting list. The methodology for determining the allocation percentages is unclear raising questions about the results. For example, Agriculture allocations do not reflect a need to encourage food sustainability and it does not explain how surplus water would be used if a specific category did not use its allocation.

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Although the County Council should be applauded for wanting to solve the issue of water shortages through watering schedules and allocating new sources of water from new development, this can only be considered a drop in the bucket. The Council would better serve our citizens through an ordinance that motivates the DWS to develop new sources of water, obtain, obtain sources from existing allocations, and the repair and maintenance of existing transmission infrastructure. Thank you, Chair.

CHAIR ANDERSON: Thank you, Mr. Montgomery. I will just comment that this is a temporary measure so that what little source we have to allocate or to allot is fairly distributed and that the community plans their...their policies regarding water and their land use designations that is a function of the Water Use and Development Plan. So when that comes into play and as a document that we can use to plan the use of our future water expansion and our, and our current water needs and allocation of source, then this bill will be null and void. So, I appreciate your testimony but I think we've addressed most of what you were concerned with. Any other questions, Members? Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. Mr. Montgomery, you raised an issue that of course is of great interest to me as the Upcountry representative and that is the Upcountry water meter list. And I, as we pursue this discussion today I will be, you know, asking about that. I'm, I'm assuming that it is somehow incorporated in these categories but not specifically. And I think when you referred in your testimony that you might have changed it, you were referring to the lack of percentages in...or what would happen to water that wasn't used?

MR. MONTGOMERY: That was part of it. Yes.

COUNCILMEMBER BAISA: Was there anything else?

MR. MONTGOMERY: Yeah. I think that as the Chair pointed out that there is reference to the water meter list in here as well. So I think that there were some additional things that we would have modified as well.

COUNCILMEMBER BAISA: I would like to thank you very much for coming. It's good to hear from you folks 'cause, you know, this water thing Upcountry is a big deal. Thank you.

MR. MONTGOMERY. Very important. Thank you. Thank you.

CHAIR ANDERSON: Yeah. As you will note, Ms. Baisa, the Upcountry system does not fall under this ordinance, the water priority list takes preference. Our next testifier is Warren Watanabe and he...testifying for the Maui County Farm Bureau as Executive Director.

COUNCILMEMBER BAISA: Chair?

CHAIR ANDERSON: Just a second, Mr. Watanabe. Ms. Baisa.

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COUNCILMEMBER BAISA: I'm sorry but could you repeat that last statement you made?

CHAIR ANDERSON: This ordinance will not apply to the Upcountry water system, because the water priority list takes priority over everything. In other words, if there's a new water source coming online Upcountry, the priority list is what will take preference over who gets the water. If you're number one, two, three, four, five on the list that's how the water will be issued.

COUNCILMEMBER BAISA: Was that stated in the draft bill we got?

CHAIR ANDERSON: It's in the bill today.

COUNCILMEMBER BAISA: Okay. That's why we're all confused.

CHAIR ANDERSON: Well, I, I --

COUNCILMEMBER BAISA: We didn't know that.

CHAIR ANDERSON: --mentioned it at the beginning of the meeting as I went through the bill.

COUNCILMEMBER BAISA: I realize that but we didn't have it over the weekend when we were preparing for today.

CHAIR ANDERSON: Right.

COUNCILMEMBER BAISA: Thank you.

CHAIR ANDERSON: Mr. Watanabe.

MR. WATANABE: Good morning, Chair Anderson, and Members of the Committee. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. And first of all, I would like to thank the Chair for her explanation this morning on the, on the proposed bill. And like, like the Kula Community Association we had written this testimony prior to some of this information. However, the Maui County Farm Bureau on behalf of our farmers and ranchers strongly opposes WR-16, proposing allocation of new sources of water in the County. First of all, the proposed allocation system will drive land use in the County. Water should not drive land use. Land use should be a comprehensive decision including variables beyond water. On an island that is facing water shortages, this proposal clearly sends a signal that water will be the deciding factor.

As Maui's general agriculture advocacy organization, this measure sends a clear message that agriculture is not important. Extended droughts have placed agriculture in a very precarious position. The Hawaii State Constitution clearly recognizes agriculture as a desired and important part of Hawaii. The State Water Code identifies use of water by

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agriculture to be in the public interest. The Code further identifies the methodology for the development of a water plan. It specifically requires the plan to be consistent, consistent with County plans. I recite Part III of the Hawaii Water Plan Section 174C-31, "Each Water Use and Development Plan and the State Water Projects Plan shall be consistent with the respective County Land Use Plans and Policies including General Plan and zoning as determined by each respective county." Maui is undergoing its general plan process. The vision articulated in the plan should play a critical role in identifying water development. Allocating water as proposed in this measure is not in the interest of Maui and is inconsistent with State law. And we respectfully request this measure be held.

And I just want to add a couple things. For the Upcountry area, and I appreciate that the water meter list will be...take precedence but there are some concerns from some of our ag industry people that there are ag lots in the Upcountry area and other areas of Maui that have no water meter. And again when we talk about sustainability, self-sufficiency, these lands could become productive should they...if they can get a water meter. And also, dealing with sustainability and self-sufficiency, I know the, the County Administration and I think this County Council has expressed support of establishing more ag parks and I think the, there's one specific concern I think was in the Lahaina area. We need to establish different growing areas all across Maui. Thank you.

CHAIR ANDERSON: Thank you, Mr. Watanabe. I, I think if you read Sunday's paper there's a plan afoot to take water from the Hamakuapoko Wells for the Kula Agricultural Park so that would be helpful. You know, water is the deciding factor for land use when you don't have any. You can't develop land if you don't have water. And if you have very little water the, the point of this bill is to make it fair so that, you know, for Upcountry, of course this is only potable water, but for Upcountry there will be...40 percent set aside for agriculture. That's a lot of water. West Maui is only .6 percent. And the difference is that West Maui uses more non-potable water for ag than Upcountry.

So, you know, this bill would safeguard your use of non-potable water if it comes online Upcountry. Of course, as I said, the priority list takes precedence anyway. Any questions, Members? Seeing--Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mr. Watanabe, for being here. You mentioned the ag lots. Do you know if the ag park in Kula, all of the lots have water meter for agriculture? I don't know how many lots there are but. . .

MR. WATANABE: Well, I assume all the lots do have water meters. Yes. If not, you couldn't use, use the lot.

COUNCILMEMBER PONTANILLA: One more question. In regards to the dual line, meaning the State had constructed a line for farming, is that completed or it's still under construction?

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MR. WATANABE: It is still under construction and actually nobody, nobody has even used the water out of that system yet. We are still doing the, the distribution line but still you need to drop, drop the laterals to the farms. That needs to be also be done. We are always continually seeking funding from the Federal, State, and County levels and hopefully to complete the project.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR ANDERSON: Thank you, Mr. Pontanilla. Thank you, Mr. Watanabe.

MR. WATANABE: Thank you.

CHAIR ANDERSON: Okay. Our next testifier is Kimokeo Kapahulehua followed by Jocelyn Perreira. Anybody who wants to testify this is your last call.

MR. KAPAHULEHUA: Madam Chair and Members of the Water Resource Committee, my name is Kimokeo Kapahulehua. This morning I'm testifying on behalf of the individual who is concerned about this new water bill. I would like to first suggest the Department of Hawaiian Homes.

CHAIR ANDERSON: Excuse me. Wait a minute. Kimokeo, you're, you're testifying on your own behalf?

MR. KAPAHULEHUA: Yeah, on my own behalf.

CHAIR ANDERSON: Okay. Thanks.

MR. KAPAHULEHUA: I just wanted...I'm not testifying for Hawaiian Homes. I'm a beneficiary of Hawaiian Homes and I have not yet received an agriculture lot. So I don't know if this allocation includes all of the agriculture lots that's with Hawaiian Homes development besides the homes on each of their areas they have, because they have agriculture lots and pastoral lots that's been allotted to us guys, the beneficiary. So, I just want you to make sure that in your, in your ordinance that...on your next six weeks that you consider that.

And secondly, I'm a little concerned about the percentages was discussed as about how you're going to transfer if it's not used from one category to another and get into the Water Department. And once this ordinance is, is made that this allocation is authorized in one department and no longer come to Council. So, if they not using affordable housing or that goes to Hawaiian Homes or wherever it goes. So, I think that you as the Water Resource Committee should look at, at that section on transferable. And I think the other thing that concerns me is that throughout the year that we had the few development that's going to deal with affordable housing, so with this 100 percent affordable housing, so how do you separate affordable housing in a development that

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going get mixed housing and marketable housing? So that's one concern I have to bring to you.

And the other concern I have is that what about the one that the developer no more room for affordable housing, so he giving to our nonprofits like MEO, Na Hale O Maui, and what do you call, Na Hale O Maui and Lokahi, they give the money because they not going to, they not going to build 'em on their land. And that's how the nonprofits are getting their money to build their house. So, how do you work your percentages there between the guy attached who, who's helping that affordable housing that's not on the property, and how does he get his water?

And I'm really concerned about the agriculture as not so much we go out every day telling everybody to be sustainable now on Maui because of the, of the cost. For you guys no go buy anything from the mainland. Everybody buy here. Everybody going make their garden. So, this agriculture expansion is not only going to be up in country, it's going to be all over the island that people, I know Haiku is doing their own community garden plan. They trying to do that. And there's a few communities getting together to make their own community plan on gardens within the area or trying to go get land from Amfac and other people right now they doing that. And they, you don't probably have 'em out here because like West Maui Land is making a lot of lease with a lot of people who's going to them right now. And, and I know that water doesn't affect your County development, but it does affect the aquifer that's within that area.

So, I just wanted to bring some concerns to this ordinance and for you to caution. And last of all, Madam Chair, you said that South Maui not going to build no more hotels. I want to tell you that in, in one of the Kihei Community Association meeting, a year ago or two years ago, they brought up the new Kamaole Hilton Hotel and that did not go through but that property down there still zoned for hotel. So, there's several places down there still zoned for hotel until we tell, you guys tell them no more zoning over there or they not belong in the general planning committee. But I just want to bring these concerns to you, because I know this morning that this ordinance that you have, you have to act on it within the next six weeks and bring it up and looking forward for you looking at our distribution of water for the people of Maui. Thank you so much.

CHAIR ANDERSON: Thank you, Kimokeo. I just want to address a few of your comments. First, I didn't say there would be no hotels in South Maui. I just said there won't be as many as we currently have. And currently in South Maui for hotels we're allocating 10 percent of, 10 percent of our water to hotels.

MR. KAPAHULEHUA: Thank you, Madam Chair.

CHAIR ANDERSON: So, you know, yeah, it's just that we probably won't have...we won't duplicate the number of hotels we currently have.

MR. KAPAHULEHUA: Oh, yes. I agree with that.

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CHAIR ANDERSON: You know, we might have three more hotels down there at the most. And the other thing regarding ag . . . (*change tape, start 2A*). . . lots, especially for you for DHHL. And you said that yours . . . your lot's Upcountry?

MR. KAPAHULEHUA: No. We, we haven't gotten lots yet but I'm just saying generally that we have an application in there and it could be anywhere on the island depending on the list.

CHAIR ANDERSON: Okay. Okay. And so, this DHHL percentage that we're setting aside, Kimokeo, is for any kind of DHHL land, --

MR. KAPAHULEHUA: Thank you.

CHAIR ANDERSON: --whether it's ag lots or urban lots. And then the other thing between market and affordable housing. You know if . . . what we want is housing and the definition that we're using for affordable housing means an affordable housing project that is not part of a larger development and contains only residential workforce units that are sold or rented. So, if it's a 100 percent affordable project that is stand-alone from a larger development, then it would apply under this.

MR. KAPAHULEHUA: Okay. All right. I understand that.

CHAIR ANDERSON: Okay. Any questions from the Members? Seeing none, thank you very much.

MR. KAPAHULEHUA: Thank you.

CHAIR ANDERSON: Good to see you back in, in the fighting mode.

MR. KAPAHULEHUA: Thank you.

CHAIR ANDERSON: Thank you, Kimokeo. Our next testifier is Jocelyn Perreira.

MS. PERREIRA: Good morning, Madam Chair, Members of the County Council. My name is Jocelyn Perreira. I am the Executive Director of the Wailuku Main Street Association Inc./Tri-Isle Main Street Resource Center. And I'm here today to speak on this proposed ordinance, I guess you would say of extreme importance to our Upcountry towns of Makawao, Kula area, so on and so forth, as well as Central concerns, and those in Hana. We are concerned. We, we first of all want to thank you for the hard work and the honorable intentions that went into the making of an ordinance such as this. Today we face the challenge of changing times and one of our concerns is that we continue to respect and follow the community plans, the Makawao-Pukalani-Kula community plans. The Upcountry waiting list, which has been touted and spoken about enormous amount of times in this County Council also has to be upheld. And I know you mentioned that that

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was going to be priority but there is concerns about the percentages, and doesn't affordable housing come before, you know, those on the list? What about those who have ag designated land that are not on the list? What about the families that want to have some upward mobility and want to leave their starter home for their families and then they want to go and, and participate on their...on land that they've been on, that they've owned for generations, so on and so forth.

We note that there was not any kind of recognized public process for determining the use of surplus water and I think that's kind of something important. We should talk to the people of Makawao and Upcountry and see what they think if there's surplus water where and how it should go. Because a lot of this did take place actively when, when they were doing the Makawao-Pukalani-Kula-Upcountry plans, but they never envisioned something like this. I know our organization is also concerned that we're not just going to be bogged down and not having a focus on trying to actively pursue the developing and finding additional water resources. Even though it is...it takes time to do that, continue building water storage facilities but we feel that we need to move concurrently. Because if we do not we...anytime you stop something, whether it be a moratorium or what have you, people are going to get hurt. People are going to be hurt by not having the jobs to build the homes for the families that need to go. And let's face it for our families who are on the waiting list or those who want to maybe go out of their home build another...upward, a home that gives them upward mobility and leave the starter home to their families they're stuck in gear.

And, you know, this is something that could be actively being pursued and that's the only thing that we see when we look at this. And I may have a wrong copy, Councilmember Anderson --

MS. WILLENBRINK: Three minutes.

MS. PERREIRA: --but the Upcountry system that's noted here, priority water meter list shall apply to the categories does not have a percentage. So, like for instance on the list it's noted one through...one through ten but it doesn't give a percentage. So what does --

CHAIR ANDERSON: Okay.

MS. PERREIRA: --in other words when reading this --

CHAIR ANDERSON: Yeah.

MS. PERREIRA: --what it means is like okay if we have a family residence, okay, and they . . .

CHAIR ANDERSON: I'm going to stop you, I'm going to stop you right there, Jocelyn, you met your three minutes and explain this to you. The reason the bill has those categories under Upcountry, we will be taking them out unless any one of these Members wants to allocate specifically and...to a category. And the reason being is that the Upcountry

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priority list prevails over all these categories, and I just left them in there for discussion points. If you're on the list and a new water source comes online, it will be first come first serve based on the list. Okay. There's no percentages involved in Upcountry because the priority list is already a legal determination as to who gets water on a first come, first serve basis based on their number on the list no matter what their use is. Is that clear?

MS. PERREIRA: It is a little clear. What I think is still cloudy, if I may?

CHAIR ANDERSON: Yeah.

MS. PERREIRA: Is, is the fact that what does that mean to existing farmers, you know, if somebody's on the list before an existing farmer that needs to either expand or so on and so forth, what does that mean for those who own land . . .

CHAIR ANDERSON: They better be on the list if they want water. I mean the list has been in existence for many, many years and the Board of Water Supply adopted the water meter issuance rule for the Upcountry water system many years ago. And that was a way, I mean basically this Upcountry water list, priority list is the same thing that we're doing in this bill except we're doing this for all the other systems not for specific people but for specific uses.

MS. PERREIRA: Madam . . .

CHAIR ANDERSON: So that when then new water comes online Upcountry if you're on the list you get to use it.

MS. PERREIRA: Madam Chair, with just all due respect, what if I have family or many people out there may have family, they're not on the list, because their kids maybe are becoming young adults and they haven't gotten on the list so that locks them out. If they're not on the list, it locks them out. And I don't . . .

CHAIR ANDERSON: But that's been the law for some time, Jocelyn, and we can't change it.

MS. PERREIRA: Well, perhaps we need to think about it --

CHAIR ANDERSON: . . .*(inaudible)*. . .

MS. PERREIRA: --about how we make provisions . . .

CHAIR ANDERSON: I mean I should just tell you that there's more people on the list than we have any hope of getting water in the near future to, you know, fulfill for the people on the list. I think, I think we may, may--what is there 1,500 people on the list right now? So, you know, it's a priority list. If you want water Upcountry, because there is no water Upcountry just like there is no water in any of the other systems right now in Maui

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County, you got to get on a priority list. And what we're doing with this bill for all the other systems except Upcountry, because you already have a priority list per requested user. We're doing that now for all the other systems in this bill that says if you're an affordable housing user, this much water is going to be allotted per million gallons. So, you get in there and get your meter from that water. And if you're a commercial user, this much water is going to be allotted for you. So, you get in there and use that water.

But, you know, what if you're a commercial user that wants to use 500,000 gallons of a million gallons, you better rethink your plans, because some of that water is going to be allotted for somebody else's priority use.

MS. PERREIRA: Yeah. And that's why we have concerns and I will state that we do have concerns, because those items are not clear in our minds and that's why I brought it forth this morning for consideration.

CHAIR ANDERSON: Okay.

MS. PERREIRA: Thank you.

CHAIR ANDERSON: Well, I appreciate that but I think by now everybody that lives Upcountry should know about the water priority list. Any other questions from the Members? Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I have a question not to direct to Ms. Perreira but to, to the Chair maybe you can help. This Upcountry priority list is it strictly first come first serve and they go in the order of which you are on that list?

CHAIR ANDERSON: Yes.

COUNCILMEMBER BAISA: And so, it doesn't matter. You could be a developer wanting to develop 20, 30 homes and I can be a homeowner that's been up there for three generations with family land and there's no priority. It's the next guy in line who gets the meters.

CHAIR ANDERSON: That's right.

COUNCILMEMBER BAISA: I think that's really important to be clear to people 'cause that's one of the issues we have with that list is that it really...it's unfair to long time residents and that's what they can't deal with. And I, I didn't make that law and obviously it was made before maybe even you came but that's what we're dealing with.

CHAIR ANDERSON: Right. Well, you know, Members, if you want to tackle this next term, have at it but you're going to have a lot of people who are on the list who feel they have a vested right to be where they're at. But there might be some way to...I don't know

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there's so many people on the list now. There's so many, you know, gallons per day necessary to fulfill that list but I think you're pretty much stuck with it.

COUNCILMEMBER BAISA: Thank you very much.

CHAIR ANDERSON: Yeah. Okay. Thank you, Ms. Perreira.

COUNCILMEMBER BAISA: Thank you, Ms. Perreira.

MS. PERREIRA: Thank you very much.

CHAIR ANDERSON: Okay. Our last, oh, our next testifier is Charlie Jencks testifying on behalf of Honua'ula Partners Inc. who will be developing a private source of brackish wells.

MR. JENCKS: Good morning.

CHAIR ANDERSON: Just a little ad lib.

MR. JENCKS: You had to add that in.

CHAIR ANDERSON: I had to do that.

MR. JENCKS: Well, actually the...well, my name is Charlie Jencks. I'm one of the representatives of Honua'ula Partners LLC. I wanted to clarify that the wells we did dig offsite for the project are potable wells, which I'm happy to report. I just wanted to summarize a few comments. I did listen carefully to Alice Lee's comments and I...with regard to the allocation that we went through in Public Works with regard to wastewater, she's absolutely correct. It didn't work. We allocated wastewater capacity to certain kinds of uses. We even allocated to affordable housing. And guess what? Nobody came in to use that allocation for affordable housing. We were always moving numbers around and coming back to Council. And I don't think anybody was more happy to see that bill sunset than the Council because it was frankly it was a pain in the neck. But we did do it in a period of time when we had limited capacity and it, but it simply didn't work and we ended up adding capacity in Kihei, and Lahaina, and also Kahului.

On the affordable housing side, now, many of us sat in this Chamber for fully two years working on an affordable housing bill and subsequent to the passage of that bill projects have been approved that require whether it's 40 percent or 50 percent affordable housing. And now to hear that, you know, we're working hard, we're spending money, and it's, it is getting more and more difficult to get money to spend to build these projects. We're being told that, well, maybe you won't get the water that you think you're going to need to build affordable housing. I have a real simple cure for that. I would suggest you take the Water Availability Bill that was passed by this Council and exempt affordable housing out of the Water Availability Bill. If you really want to get affordable housing

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built, that's the only way you're going to do it given the current structure and the economy of Maui County.

I read *The Maui News* on Sunday and I was, I tell you what I, I was pleased to read what, what I saw in the paper. I think perhaps the Mayor is on the right track and Mr. Eng is here today, source is the key. And, and I, I don't know why it is so difficult to say we're going to build new source, we're going develop new source and get water into the system instead of saying, well, it's going to be difficult or maybe less than what we think is going to be developed. I'm, I'm an optimist. The glass is always half full. I've been able to do it. I'm not quite sure why other people can't do it; develop source. That's the key in my mind. Allocations are not the key or the successful way to allocate resource.

The economy, we've all been reading about it and we're not going in the right direction with this bill. Certainly, I think one way to get out of an economy is to free things up. I know the term free market is maybe a bad thing nowadays when you talk about hedge funds and derivatives and those kinds of things. But I, I firmly believe developing source, getting it to the market place, developing affordable housing the way this Council wanted affordable housing to be built is the key to success. And I would also close with, and I keep hearing this whether it's the Chair of this Committee or people that testify, talk about the issue of using water as a land use regulatory tool. That's not what it's meant to do. The Department of Water Supply by the Charter is meant to implement the community plans of this, of this County. That means in my mind, when it says implement, provide the water to achieve the goal of developing those community plan districts the way they're set out in the community plan. That's their job. That's their responsibility. I think you should go back to that basic rule and follow the source to the community plan districts and implement them the way they're supposed to be implemented.

CHAIR ANDERSON: Thank you, Mr. Jencks, for your opinion. The, you know, this is a big question and it has been for sometime. If you want to stay, Mr. Jencks, in case we have questions. Does land use drive water or does water drive land use? And in the past it's always been land use drives water. But when you run out of the source it's kind of hard to follow that same policy. And in fact Governor Ariyoshi has said for years that water use should be driving land use. It's a matter of system capacity. It's a matter of carrying capacity. We after all are on an island with finite resources. So, I appreciate that point of view but...and I, you know, I understand that you're thinking that we should provide an equal priority for water for market-price housing that has affordable housing attached to it. But generally the affordable housing that is attached to market price housing is 140 and 160 percent. Sometimes we're going to get a little bit down to 100.

But the 100 percent affordable projects that our nonprofits are doing are basically, you know, 120 percent and below. And so that's why we're giving them a priority use in this ordinance. And I hope you can appreciate that because that is where we really need the affordable housing. And those affordable housing projects attached to a project such as yours, they may be many, many years down the road to getting developed because of

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financing problems for these large projects. So, that is the reason we're taking this measure so that what little water we have coming online is used in a manner that meets the basic needs of our resident population.

MR. JENCKS: Interesting.

CHAIR ANDERSON: So, my question for you is how much water did you get?

MR. JENCKS: From what?

CHAIR ANDERSON: From the wells that you just drilled --

MR. JENCKS: Oh, the wells.

CHAIR ANDERSON: --the potable wells?

MR. JENCKS: The two wells we, we drilled in South Maui will deliver a million gallons a day total from the two wells and . . .

CHAIR ANDERSON: And they're potable?

MR. JENCKS: At present they are potable, Madam Chair.

CHAIR ANDERSON: At present they're potable.

MR. JENCKS: That's correct.

CHAIR ANDERSON: And are they like right below the 600-foot elevation on, on Haleakala Ranch lands?

MR. JENCKS: Yes.

CHAIR ANDERSON: Okay. Great. That's good news. Thank you.

MR. JENCKS: It is good news. I would just...one comment that you, I'd just like to respond. The project was...Honua'ula was conditioned to build 250 affordable housing units off property and all of those units, 125 of them by condition are rental which means they'll be rented at 60, 80, and 100 percent of the County median which is...there's a dearth of that product today in Maui County. It's 125 units. And the other 125 units at 100 percent or less of the County median which, which falls in exactly the category you're talking about that's needed. So, I guess my problem is potentially why would I be penalized for doing what the Council wanted to me to do by implementation of this bill? Because that housing isn't part of larger project which is the purpose for the Residential Workforce Housing Bill.

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CHAIR ANDERSON: Well, let's maybe look at an amendment that would satisfy that need, Mr. Jencks, since you already have water for your larger development.

MR. JENCKS: I see.

CHAIR ANDERSON: Okay.

MR. JENCKS: Okay. Just a question.

CHAIR ANDERSON: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. Quick question, Mr. Jencks. Thank you for coming today.

MR. JENCKS: You're welcome.

COUNCILMEMBER BAISA: You bring, you raise an interesting question and I'm very interested in the discussion that's been going on about the new wells. Can you tell us how long did it take you to get those wells done?

MR. JENCKS: I've drilled four wells in two years.

COUNCILMEMBER BAISA: Two years.

MR. JENCKS: Two of those wells were Upcountry and they're 1,800 feet deep. Now, those took the longest maybe six months each to drill and case and test. The wells in South Maui far less than that, I would say drilled and cased three months each.

COUNCILMEMBER BAISA: And how long did it take you to figure out where to dig?

MR. JENCKS: A week.

COUNCILMEMBER BAISA: A week. Thank you for that information. That's, that's very enlightening. Thank you.

MR. JENCKS: You're welcome.

CHAIR ANDERSON: Thank you, Mr. Jencks. Our last testifier is John Andersen. And he's testifying on behalf of Na Hale O Maui.

MR. ANDERSEN: Good morning, Chair Anderson, and Committee Members. My name is John Andersen. I am the Executive Director of Na Hale O Maui, our community land trust for affordable housing. And I'm here this morning to say thank you to the Chair for bringing forward a very proactive addressing of the priority for 100 percent affordable housing. And also thank you for the focus on 120 percent AMI and below. This is

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exactly where we need the affordable housing at, at the present time. I'm, you know, very pleased that, and thank you for your explanation this morning and the changes that have taken place in the last week on the proposed ordinance. It has addressed a number of my concerns.

One point I'd like to bring up from revealing it this morning, you have made an allocation for Single-Family homes, 100 percent affordable, please consider 100 percent affordable Multi-Family homes as well. That is a very viable solution to our 80 percent and AMI below for ownership and it is doable. We have been getting many calls since that article appeared in the newspaper last week from people in those income categories who are signing up for our seminars, going through credit counseling, preparing themselves for home ownership. There is no shortage of need out there.

We've been having a very difficult time keeping up with the volume of phone calls of buyers who want to get in the program and want to get qualified for this. So they are there. We want to provide solutions, all the ownership solutions, all the way from 50 percent of AMI up to 120 percent of AMI, and 100 percent affordable projects will do that. And the other one final comment I'd like to make and thank you for the comment this morning that it only takes six weeks to amend an ordinance 'cause I would like to request that you do revisit the "Show Me the Water" bill and that you exempt 100 percent affordable Single-Family and Multi-Family developments so the County can show the entire population that its commitment is for developing affordable housing for our residents. Thank you very much.

CHAIR ANDERSON: Thank you, John. I just want to mention, you know, the Water Availability Bill better known as the "Show Me the Water" bill was meant to keep people from developing properties that...with an expectation that they would get water from the County when there is no water to give them. So, I mean if the water isn't there, it isn't there. So, exempting affordable housing from the Water Availability Bill is not in your best interest, 'cause then you could go ahead and build but there wouldn't be any water to turn on the faucets. So, this bill I think is your answer because as new source comes available then you will have your shot of getting your fair share of it instead of it being used up by somebody else, a developer before you get a chance at it.

My question for you and I thank you for the mention of Multi-Family and I do think we need to make some adjustments for that, because I do recognize that much of the affordable housing in this price range is Multi-Family specifically that, that's up for rental and probably some for sale. But do you have your finger on the pulse of how many units of affordable housing is online or in the planning stages to come online in the near future for say Central and South Maui? I'm just trying to get... 'cause I just picked a number, you know, --

MR. ANDERSEN: I think your number is a little low on that. Yeah.

CHAIR ANDERSON: --that I thought would be, you know, a conservative number.

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MR. ANDERSEN: Yeah.

CHAIR ANDERSON: But this number is for 200 units and do you think that it's possible we could get 400 units?

MR. ANDERSEN: I think it's possible we get 600 units in that area.

CHAIR ANDERSON: In the Central Maui system?

MR. ANDERSEN: Absolutely.

CHAIR ANDERSON: Okay.

MR. ANDERSEN: And I appreciate you addressing Hana but 200 units in Hana is very high in compared to the reality of what will get built there and what is planned.

CHAIR ANDERSON: I think I did 145 units.

MR. ANDERSEN: Okay. Excuse me.

CHAIR ANDERSON: Is that still too high?

MR. ANDERSEN: That's still high. Yeah.

CHAIR ANDERSON: So, we can take...reduce some of that and put it I guess in Single-Family but what do you think...oh, shoot. I'm sorry we did do 200 units for affordable housing in Hana, oh, the, the adjustment I made was for DHHL. So, how many units do you think for Hana?

MR. ANDERSEN: About half that, about 100.

CHAIR ANDERSON: A hundred units.

MR. ANDERSEN: And that would be in, in quite a few years to accomplish that.

CHAIR ANDERSON: Okay. And what about Molokai?

MR. ANDERSEN: What did you have in there?

CHAIR ANDERSON: Two hundred.

MR. ANDERSEN: Two hundred. That's probably also high by about double.

CHAIR ANDERSON: So, 100 units.

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MR. ANDERSEN: Uh-huh.

CHAIR ANDERSON: Okay. We want to be realistic, Members, 'cause remember this is only for a million gallons. And then what about West Maui, John?

MR. ANDERSEN: I think you could look at 3 to 400 units in West Maui.

CHAIR ANDERSON: Okay. Okay. This is the man who's out there with his pulse on all these 100 percent affordable projects working with developers and our nonprofits. So, any questions, Members? Okay. Seeing none, thank you, Mr. Andersen.

MR. ANDERSEN: Thank you.

CHAIR ANDERSON: We appreciate it. Okay. Members, with no objections I'm going to close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

**...END OF PUBLIC TESTIMONY...**

CHAIR ANDERSON: Okay. Testimony is closed. We're going to take our morning break and reconvene at a quarter to 11:00. Okay, Members, our Water Resource Committee meeting of November 17<sup>th</sup> is now in recess. ...*(gavel)*...

**RECESS: 10:35 a.m.**

**RECONVENE: 10:54 a.m.**

CHAIR ANDERSON: ...*(gavel)*... The meeting of November, can you believe it, 17<sup>th</sup> is now reconvened. Thank you for that break, Members. I'm going to open this up to our Water Director for his comments. And then we will...go through this bill. I think what we need to do is maybe spend most of our time focusing on the percentages. And I do have some revisions to propose. As I said, Members, none of this is cast in stone. This was just allocated or allotted based on historic use and what we feel is needed for 100 percent affordable housing projects and/or DHHL, which we're constitutionally required to provide water for. So, Director Eng, can we have your comments, please?

MR. ENG: Thank you, Madam Chair. And I will keep my comments brief. The Administration desires to see some type of allotment or allocation policy. As you know, the current system of issuing meters is, is basically a first come, first serve basis. And at this time, given the amount of available water we have or lack of, you know, a better system probably needs to be in place. I know in my discussions with the Mayor she would certainly like to see priority set for affordable housing projects and public facilities.

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The methodology that Madam Chair has presented today as, as she walked us through it is based on recent consumption for the various classes. And again, this is one way and one methodology we can approach or...and we don't necessarily have to follow this type of methodology. I think for most of us here we would like to at this time make some accommodations to those projects that we would like to see get water. And I think what I've heard from this body in the past is affordable housing projects, other public facilities. So, I, I think we're on the same page. I think we all need to do is walk through this proposed bill and see how we might want to fine-tune it. But again the Administration is in support of a policy such as this. Thank you.

CHAIR ANDERSON: Thank you, Mr. Director. And I'm going to preface this, Members, with a reminder that the Council is the body who sets policy for the County. And so, we've all been talking about, you know, allocating water for affordable housing so here's our chance to step up and make the policy decision that what little future water we have will be fairly allocated so that the, the affordable housing projects that are out there, that are working hard to come forward will have their fair share. I would also like to mention that in adopting this ordinance this will allow the Department to set reservations as the "Show Me the Water" bill requires that you have water before you are able to get a final subdivision for your project. Right now, because we don't know, you know, how much water is needed for various uses, by setting this allotment plan in place if someone comes to the Water Department and says, you know, we need water for our Single-Family development of 25 units or whatever it might be, they, the Department then can look at the amount allocated for or allotted for a Single-Family development and say, well, we can reserve that water for you for two years. And that's what reservations are for, for a two-year period.

And so, I think this really stabilizes the economic projections that people have to make in committing to any kind of a project 'cause they know that, they will know that a certain amount of water is allotted for this type of use. So, I'm going to just mention that, 'cause I want to turn this over to you guys, but I just want to mention that there's two things that, from the testimony that came to mind. One being that if for instance the Honua'ula project because the 120 percent and below affordable housing portion of that project is being done separate from the larger development, . . . *(change tape, start 2B)*. . . it's actually in a section of the County that would need to use the County water system, and currently there isn't water, but when water comes on they would qualify for this 100 percent affordable housing project from very low up to 120 percent. If we put language in that says, 100 percent affordable housing means an affordable housing project that is not part of a low...larger development, unless that larger development has its own supply of water, and that means the larger development, the market price and the 140 to 160 that's being done in the...in the...within the Honoulu [sic] project they get their own supply. But then the 120 percent and below affordable housing that's going to be done up at Kaonoulu would be able to reserve water within this allotment if it, you know, gets in line in time.

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Then the other thing based on Mr. Andersen's testimony that we need more affordable housing for the Central and South Maui areas. We looked at adding 200 units and taking it out of Other Multi-Family, and then we also looked at adding 200 units because remember I took all of the affordable housing allotment out of Single-Family. So, we could take another 200 units out of Other Multi-Family...out of Multi-Family and add that to affordable. So, then we would have 400 units affordable housing in the West Maui water system and 400 units in the Central Maui system. So those are just two changes that came to mind during the break to meet the suggestions that we got during testimony.

So, Members, I'm now going to open it up to you. If there's any pressing question that you want to jump right to I'm willing to do that. Otherwise, we'll go section by section. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I have a broad question. The ordinance as proposed from what I understand applies to new County sources of water that are over a million gallons.

CHAIR ANDERSON: Not necessarily. It, it applies to...and let's be real clear under applicability . . .(short pause). . . sorry, under allotment of new water sources. For every one million gallons or increments thereof.

COUNCILMEMBER BAISA: Okay.

CHAIR ANDERSON: So, this sets the percentage. Say they get 700,000 gallons this would still apply to that.

COUNCILMEMBER BAISA: Okay. Based on that understanding, I'm just curious. We are passing an ordinance and I heard earlier the statement that we expect to have the Water Use and Development Plan completed in June. So that's about six months from now. I'm not aware of any new water sources coming in that would fall in this category. Can somebody enlighten me as to what new water this is going to apply to? I didn't know we had any. Thank you.

CHAIR ANDERSON: Okay. That's a good question. And just before I turn it over for Director Eng to answer. You know I did say that we're looking at the draft being ready in six months, but as things go that may not happen, number one, it may be August. And number two, it has to go through this body's approval, which could take several months because it's a very large document and there's a lot of detail in it and various components that need to be reviewed. And then it also has to be accepted by the Commission on Water Resource Management. So, you know, even if we get it in six months it might be six months before it's finally adopted.

And the other thing I wanted to, to mention is that allocation is probably the trickiest part of the Water Use and Development Plan. And the consultant that's working on it is

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looking for guidance from this body. And this is going to help give him some guidance because, you know, we can't look at water as an unlimited source anymore. So, in our policy setting responsibility this is our chance to say, you know, we think we need to put this limited resource towards these directions in order to meet the most pressing needs in the future development of our County. If you look at the GPAC plan, it's a wish list. It's a dream list and there may never be enough water to fulfill all the requests in the General Plan land use map.

So, with that, Director Eng, can you give us some idea of say within the next year how much new water source? And this could be anything, Members, not just a well drilled but more storage which would give us more water and maybe even. . .

COUNCILMEMBER PONTANILLA: Treatment facilities.

CHAIR ANDERSON: Sorry?

COUNCILMEMBER PONTANILLA: Treatment facilities.

CHAIR ANDERSON: A treatment, expansion of a treatment facility and the use of more surface water. Mr. Eng.

MR. ENG: Thank you, Madam Chair. For this body's information, we are anticipating the Maui Lani wells to be in operation some time next summer. And the net available capacity should be in the order of one million gallons per day. So . . .

CHAIR ANDERSON: To the County or total?

MR. ENG: To...total but of that again over a period of five years that again, that...it's somewhat like we're borrowing water from Maui Lani. So, initially, it's around a million gallons per day but Maui Lani will receive of that about up to 200,000 gallons per year. So, it's allowing us to borrow a certain amount of water over a period of time. But there will be water available. We're expecting that as we're borrowing the water that we will have new sources being developed or developed by the time that four or five-year period has expired.

UNIDENTIFIED SPEAKER: Okay.

COUNCILMEMBER BAISA: May I ask a clarifying question? A four or five-year period. The window we're looking at is this, this one year. I don't understand how, how that answer fits.

MR. ENG: Okay. Let's say like . . .

COUNCILMEMBER BAISA: Within the next 12 months what new water do we expect to see that we will use this formula to allocate is what I'm trying to figure out.

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MR. ENG: Okay. Again, for the Maui Lani wells, let's say they do come online next summer. At that time, Maui Lani itself would be entitled to meter rations of up to 200,000 gallons for per year. In theory, we would have 800,000 gallons per day to allocate to various County projects. We could control that water. Now, most likely we're not going to issue meters to that extent all at once. Again, unless we can anticipate the economy improving, but there will be water available that this would be applicable to, this methodology as, as we issue meters. So, so, something like this is needed and will be needed when the Maui Lani wells come online.

COUNCILMEMBER BAISA: Is there anything else?

MR. ENG: Not immediately. Again, the Waiale Surface Water Treatment Plant, you know, is being delayed due to the Water Commission's decision on instream flow standards. That was a significant setback for the Department. When I came onboard, you know, we did think that that was going forward at a relatively steady pace. But we're not just sitting on our hands on that. We are, again, A&B is completing the Environmental Impact Study. We are currently reviewing the construction plans and other engineering reports in anticipation that there will be a favorable ruling by the Water Commission. So, yeah, that's still going forward. And then we're looking at some other sources for Central Maui at this time. There's not enough information that, that I can share with you but we are actively pursuing new sources.

COUNCILMEMBER BAISA: So, for the next 12 months that's essentially the water we have to look at that would be affected by this allocation?

MR. ENG: Yes.

COUNCILMEMBER BAISA: Thank you very much. Thank you, Chair.

MR. ENG: You're welcome.

CHAIR ANDERSON: Thank you, Ms. Baisa. Mr. Victorino followed by Mr. Pontanilla.

VICE-CHAIR VICTORINO: Thank you, Madam Chair. First of all, thank you, Mr. Eng, for that information but I need some clarification. As I recall, Maui Lani and us or Maui Lani and the County of Maui presently has a water agreement at this point.

MR. ENG: You're correct.

VICE-CHAIR VICTORINO: And, okay, and if I remember correctly, Madam Chair, you mentioned that existing agreements would not be affected by this or these agreements would now have to be amended to comply with this? And again I'm asking the question, Madam Chair, because I'm confused at this point.

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CHAIR ANDERSON: Yeah. No. What I said was that in a private source development agreement between a private entity and the County, in those agreements the County agrees to take over a water system in exchange for giving a certain amount of the water to the private entity for their use.

VICE-CHAIR VICTORINO: Okay.

CHAIR ANDERSON: So that water, that is the percentage of water that is agreed to be used by the private entity, that is the amount of water that does not apply to this bill.

VICE-CHAIR VICTORINO: Right.

CHAIR ANDERSON: Because that's their private "water". They developed the source. They can use it for their needs. But the balance of the water that comes under County control --

VICE-CHAIR VICTORINO: Right.

CHAIR ANDERSON: --will be applicable to these allotments.

VICE-CHAIR VICTORINO: Thank you for that clarification. So, I go back to you, Mr. Eng, we do have an existing agreement you said yes to that. Can you please tell the...and just for my recollection and maybe some of the other Members and the public's recollection, what this agreement basically states? I know you said about 200,000 being used year round, but tell me what the agreement actually bottom line says to us in the County, I mean to us and Maui Lani.

MR. ENG: The, the agreement is basically, and again this was the agreement was between the former Administration and Maui Lani. And I believe the intent was to allow and give the County some time to develop some new sources. So, Maui Lani decided and agreed to develop three new wells. When they come online, and let's say the capacity, net capacity will be about one million gallons per day, per the agreement they can request meters for up to 200,000 gallons per day per year. The remaining balance of the net capacity the County can utilize and in essence borrow until they can develop new sources.

So, let's say by year five after the wells come online, essentially, Maui Lani will have 100 percent of that water that they have developed. But again for a four or five-year period we have some water to borrow.

VICE-CHAIR VICTORINO: Now, let me ask you this total usage by Maui Lani it is only for future development or is it also retro to the development, which for right now I understand all those homes there are on the County system, not on Maui Lani system. Am I correct in saying that?

MR. ENG: Yes, Member Victorino, that's my understanding is --

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VICE-CHAIR VICTORINO: Okay.

MR. ENG: --most of the existing residential was served by County meter issuance. Some of the current projects though --

VICE-CHAIR VICTORINO: Uh-huh.

MR. ENG: --are tapping into their new allocation.

VICE-CHAIR VICTORINO: I understand that.

MR. ENG: And anything future will be part of their . . .*(inaudible)*. . .

VICE-CHAIR VICTORINO: Okay. I understand that. But if and I think you gave me a number around 700,000 gallons, I may be off by somewhat small number, but around 700,000 gallons. Right now, Maui Lani is using County water sources at this time?

MR. ENG: That --

VICE-CHAIR VICTORINO: Approximate.

MR. ENG: --I'm not familiar with that number but I can look it up for you.

VICE-CHAIR VICTORINO: Okay. And I won't debate the number and I, we've discussed this in the past and I, if I think if I asked you you'd get me the number. But the point I'm trying to make is if they get a well that gives them a million gallons of water or gives the project a million gallons, do we give that million...million gallons minus let's say 700,000, I don't care what the number is, minus what is . . .*(inaudible)*. . . that should come back to the County of Maui for our use?

MR. ENG: No.

VICE-CHAIR VICTORINO: So, in other words, they develop a source and we let them use that source to make further development even though we giving them 100 percent and we've provided water for the present housing that's there right now and the present project that has been developed out. Nothing is retro? In other words, that, that million gallons does not apply to that?

MR. ENG: No, it doesn't. But again a meter is issued for their existing residential. They did pay the water system development fees.

VICE-CHAIR VICTORINO: Okay.

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MR. ENG: So, therefore, we had those funds available to expand our system and develop new sources. So, they didn't get it for free. They paid their fair share.

VICE-CHAIR VICTORINO: Well, and that wasn't my question. I mean I just find it hard to understand and I was under the impression, and I apologize for having the wrong impression, that once this water source came online, these wells, the million gallons plus, we would take back the 700,000 or whatever they were using and they continue to develop until they use their million gallons. So, I was under the wrong impression and I apologize, but I think I know some further, further looking into this matter, Madam Chair, would have to be because again I don't borrow water from anybody because they developing a source for their use when they already using our water. And I think that's a little different take on this whole thing. So, I, I would like to look into this matter further, Madam Chair, but we'll take that as another subject matter. Thank you, Mr. Eng.

CHAIR ANDERSON: Yeah. And it is another subject matter. It's not on our agenda so we're going to stay off of that specific discussion about agreements except as they apply to new sources that the County may be anticipating to come online. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. I think Mr. Eng answered one of my question regarding 200,000 gallons per year, but he clarified it's 200,000 gallons per day for the entire year. So this customers that Maui Lani is now reserving water for will, eventually in fact they're going to become the County's customers in the long run or, or as they get their water meter?

MR. ENG: That is correct. They will be paying our rates and fees in this.

COUNCILMEMBER PONTANILLA: As part of your plans, you know, you talk about wells, what about storage facilities, increasing storage facilities within the next, you know, I know we budgeted monies to provide additional storage capacity, so are, are those capacities being considered as far as sources?

MR. ENG: Member Pontanilla, you know, we do plan and design and construct storage as we need to. We do have a new storage facility in the Kealani project area as yet to be dedicated to the County and that's an order of one million gallons in capacity. But our primary focus is new source, you know, we're not that lacking in storage at this time. But again if we find that it's needed and many times if we are serving, expanding our service area, additional storage would mostly, better efficient, more efficiently serve a new subdivision especially in an outlying area. And so we will develop that as, as needed.

COUNCILMEMBER PONTANILLA: Thank you. One, one more question. I don't know if I heard right but as far for agriculture use for Upcountry, I heard that the...going to be utilizing H'poko wells for agriculture use.

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MR. ENG: The H'poko wells would only be activated if the Wailoa Ditch is extremely low. And, you know, we're looking at maybe when it hits around 20 million gallons per day capacity or lower. We did have an experience back in the end of June and early July of this year when it was extremely low. Wailoa Ditch dropped to a level that hasn't been seen since October of 1984. So, we hit around 11 million gallons per day. And I believe that the pumps that serve the Kula Ag Park reservoirs did not have water. So, we're just, have prepared the wells. We will only activate them as needed. They are costly to operate so I'm not just going to activate 'em just to activate them but just to help the, the Kula Ag Park farmers.

COUNCILMEMBER PONTANILLA: Okay. That's, that's only time that we did it then?

MR. ENG: Yeah, that's the only time we will operate them.

COUNCILMEMBER PONTANILLA: And will continue to do that as required?

MR. ENG: Right.

COUNCILMEMBER PONTANILLA: I was going to ask a question to our Chairman but she's so busy, yeah.

CHAIR ANDERSON: Yeah, go ahead.

COUNCILMEMBER PONTANILLA: The definition for All Other Single-Family. I'm looking at All Other Single-Family, I know we concentrating on the affordable housing, 120 percent and below median income. For All Other Single-Family, let's say in a planned development or a subdivision, you know, we try to support the 160 percent below in regards to providing housing for that particular group, will that particular group fall in All Other Single-Family?

CHAIR ANDERSON: Yes.

COUNCILMEMBER PONTANILLA: Thank you. One more question. In regards to 201H that already approved 50 percent for affordable housing and the other 50 percent for market value. Will those projects be affected in regards to projects that been approved and projects going forward under 201H?

CHAIR ANDERSON: Projects that have been approved?

COUNCILMEMBER PONTANILLA: Yeah. We have one project that was approved two, two years ago, Hale Mua.

CHAIR ANDERSON: Well, I don't know if they've already gotten their source. Does anybody know if they've already gotten a source? Ellen? Hale Mua?

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MR. ENG: Madam Chair and --

CHAIR ANDERSON: Yeah, Mr. Eng.

MR. ENG: --Committee Members, I talked to the developer recently. He's looking at developing his own source at this time. It's really early though for him but this is something he's pursuing.

COUNCILMEMBER PONTANILLA: Okay. So, we'll handle 201H process going forward differently then?

CHAIR ANDERSON: Well, they would fall under these categories of Single-Family and Multi-Family depending on what they're building.

COUNCILMEMBER PONTANILLA: Strictly 100 percent affordable rather than, you know, right now the process is 50 percent both ways, yeah.

CHAIR ANDERSON: But now, remember we're only looking at percentages for a million gallons. So, a million gallons you can only divide it up so many ways and if you don't have any water right now you don't have any water. So, it's not like what we're doing here is going to make sure that everybody gets, you know, --

COUNCILMEMBER PONTANILLA: Yeah, I understand that but . . .

CHAIR ANDERSON: --the water they need 'cause if we don't have the water, we don't have the water, but at least for every new source that comes online within the next year it will be allotted in a manner that will take care of our priority use which, you know, has to be affordable housing in my opinion unless any of you feel differently.

COUNCILMEMBER PONTANILLA: Okay. Thank you.

CHAIR ANDERSON: Okay. Mr. Mateo.

COUNCILMEMBER MATEO: Madam Chair, thank you very much. I guess I'm just going to come out and say it, yeah. The new sources we're always looking at somebody else developing the new sources, because apparently we haven't reached that stage in our own planning process where the County is developing our own source and we put these limitations on the new source. These limitations are based on new source that is intended to come to the County? Is that what we're looking at, the allocation process?

CHAIR ANDERSON: Yes. New source that...as Mr. Eng just mentioned the Maui Lani wells are going to be coming online and they would be bringing new source to the County.

COUNCILMEMBER MATEO: So, those sources that are developed with no intentions of being turned over to the County, we have no control over those sources?

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CHAIR ANDERSON: Mr. Mateo, could you bring your mic up a little bit. Yeah, the Maui Lani wells and that's part of the agreement is that they are going to be turned over to the County.

COUNCILMEMBER MATEO: No. Yeah. No. That's not the question, Madam Chair. Maui Lani is just one of those sources that, you know, we're going to benefit from their water development, but in terms of looking at the, the ordinance itself, is, is this requirement based only on those sources that are intending to or intended or anticipated to become added to the County resource as well?

MR. ENG: Madam Chair.

CHAIR ANDERSON: Mr. Eng.

MR. ENG: I think I can respond to Member Mateo. Yes. What you're saying is that, well, any water that will be controlled by the County whether it's through a developer agreement or a source that we develop solely on our own which we plan to do.

COUNCILMEMBER MATEO: So, so then there could be development of source by private entities that will not have to apply [*sic*] with this particular ordinance, because they have no intention of turning their system over to the County?

MR. ENG: That's my understanding of this applicability. Is that if it's 100 percent private well then this doesn't, this is not applicable this allocation.

COUNCILMEMBER MATEO: Okay. So, then that could deter the develop...I mean, you know, for, for us then we could then be encouraging private development of source for their own use, because this in, in fact because there is an allocation allotment, there is no benefit for the private developer to assist the County in the development of their wells because they now have total control of it. And my, my concern, Madam Chair, is to get stuck into the Molokai Ranch scenario all over again with private development of, of water, water sources. I don't think private entity deserves or should be in control of the public trust.

CHAIR ANDERSON: Right.

COUNCILMEMBER MATEO: And this does not help in that regard, because we're not requiring them to turn over their source, their public trust source to the people.

CHAIR ANDERSON: Well, Mr. Mateo, first of all, the reason private developers develop a source is because they can work ahead of the County. And the reason they go into agreement with the County is because they don't want to become a water operator. They want the County to operate and maintain the system and do the billing and all of that. So, I don't think that this bill necessarily discourages those kind of agreements, because

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they're still going to want the County...I mean even A&B doesn't want to become a water operator. So, you know, in those instances where you have a private system in its totality such as the Kaanapali Water Company, they're only serving their hotel operation and the...I guess the condominiums within their complex.

But, you know, I don't see this as necessary a detriment. You know, if a private source is going to develop a private source, they're doing that now anyway, you know.

COUNCILMEMBER MATEO: And we're getting stuck anyway.

CHAIR ANDERSON: But again you have to remember this is only a temporary measure until we can get larger sources online for the County.

COUNCILMEMBER MATEO: So, Madam Chair, let me ask the Director a question in another area then.

CHAIR ANDERSON: Okay.

COUNCILMEMBER MATEO: In other than water development itself, the Department's plans for repair and maintenance. Repair and maintenance of systems that we already losing source at. Is the Department aware of what could be saved if in fact we had an ongoing aggressive program to repair and maintain?

MR. ENG: Madam Chair, Member Mateo, we always are planning even in this proposed Fiscal Year 2010 Budget, in our CIP budget to continue replacement projects. And I believe we are budgeting and planning around \$4 million for Fiscal Year 2010. In recent years, it's been around \$3 million.

COUNCILMEMBER MATEO: Do we know what, what we would save in terms of water gallons?

MR. ENG: You know we probably don't have an exact handle but we do know that these are either, could be based on the incidents of, of waterline breaks. It could be just that they are due to age or they're substandard size. So, yeah, we do have an ongoing program. Obviously, we would like to if we could fund more for replacements projects. All of our other capital needs we believe, you know, in the 3 to \$4 million a year at least we were going forward. Would be better if we had more money to dedicate to that project.

COUNCILMEMBER MATEO: Well, it's not only the money, Mr. Eng, it is the Department's ability to plan as well. So, I think we're looking at both, both the ability to plan accordingly, you know, so, and it's not, and it's not your responsibility at this point that we're here, because it has been many years of the lack of planning from the Department that has brought us to this point. So that, that's all my, that's all my thing is. It's not all about money. It's also about the ability to plan as well. So, thank you, Madam Chair. Thank you, Mr. Eng.

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CHAIR ANDERSON: Thank you, Mr. Mateo. I would point out, Members, that some months back we had the Department give us--gosh, I think this was last year even--give us a review on where they were going for source expansion. And there is a plan in place, but it, you know, it's not, . . . *(change tape, start 3A)*. . . it's not immediate like we're looking. The Maui Lani Wells, of course, have been planned for some time. There is the Waikapu south well that is looking for development into the future. I think they did exploratory drilling in 2007. That was the schedule. Maluhia, they're not pursuing that anymore. But anyway, you know, they have a plan it's just . . . *(sigh)*. . . we've got to have at least a million five in water from a source, a new source, to make it economically feasible for the County to go forward and provide the water.

I also looked into, inquired with Dr. Thomas on where he was and he thinks that he'll be able to give you guys an update after the first of the year on where he is on the exploratory source Upcountry which, you know, that could be a jackpot that could solve all your water problems from Upcountry to Central to South. I mean it could, you know, because it would be a gravity feed and that would really solve everything but it could be a two-edged sword. But at any rate, let's stick with our bill. I appreciate the questions but, --

VICE-CHAIR VICTORINO: Madam Chair?

CHAIR ANDERSON: --but we're just trying to make sure that what little source does come online doesn't get gobbled up by the most aggressive users. Mr. Victorino.

VICE-CHAIR VICTORINO: Yeah. Madam Chair, I just want some clarification. On the amount for other, Multi-Family units, I know we, we have regular units homes that 600 gallons per day, do we have the same amount used for Multi-Family units? Is that, do we use the same or do we use a different amount?

CHAIR ANDERSON: Well, I'm glad you brought that up because I am looking at the unit consumption for, you know, and it's different in different districts. So, it's, it's not all about whether it's Multi-Family or Single-Family, because the, the, the bulk of the water that is consumed by any particular say resident is...the bulk of it is for outdoor irrigation. So, the unit consumption for Single-Family in Wailuku is 407 gallons per unit. This is a historical consumption rate. Kahului is 519 gallons per unit. Um...Wailea is 1,455 gallons per unit. Maui Meadows is 1,229 gallons per unit. Maalaea is 1,289 gallons per unit. And, you know, Maalaea is all Multi-Family.

Okay. Now, okay, most of the water consumed in Kihei are about 60 percent or used outside of the dwellings in business establishments. While in Wailuku-Kahului that portion is 30 percent. Okay. So, I look at it this way, the 600 gallons per unit is a fair average that the Department uses in their planning process for most areas. And I think they probably adjust for the Wailea-Makena area. But are we going to continue to let them be the water hogs. I mean maybe now it's okay that, you know, they've developed

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this lush landscaping in this arid area, but we have to have a more prudent use of our water in the future because it's so, you know, unavailable. That if, you know, if you're building 100 units in, in Maalaea, I mean, even Maalaea at 1,200 gallons per day. Maalaea or Wailea and you only get allotted 600 units or 600 gallons per unit, then either you cut down on the number of units you build or you adjust your irrigation and your landscaping to fit that.

And, you know, I might add, Members, another measure that we could have taken or another direction we could have gone is actually in the ordinance, by law set the amount of water per unit that anybody could use. And they do that on the Big Island right now. They, when they do a source water development agreement with a private developer and the developer wants to develop 100 units, they say, okay, you get 600 gallons per unit. You get 6,000 gallons out of this 500 gallons or 500,000 gallons that's being developed or whatever it might be just for the purposes of easy percentages. And if they find, if the Water Department finds as they're developing out this 100 unit subdivision and they're using 800 gallons per unit instead of 600 gallons per unit, they'll force them not to develop any more units. They keep them constrained to 600 gallons per unit. But that's not for our discussion today. For our discussion is 600 gallons per unit is the basis of the number of units per allocation.

Now, that isn't to say, you know, if you look at the bill, Members, I only used that for discussion purposes to get our percentages in this chart. But if you look at the bill, it doesn't say in the bill how many gallons or how many gallons per unit. It just says the percentage of a million gallons shall be. So, if the percentage of, let's just say for the affordable housing units that we have right now for Central at 12 percent, if that, and that equals 120,000 gallons at 600 gallons per unit. If that allotment gets used up for 150 units, it's used up. It doesn't matter how many units it is. So, you know, I'm suggesting that we change that to meet the need out there of 400 units.

And if I might before I go back to your questioning. Let's just say under the Central system, if we took 12 percent from other Multi-Family and reduced that to 6.9 percent and added 12 percent to 100 percent affordable housing which would allow for 400 units and 240,000 gallons towards affordable housing of the million. Then you've got enough water for 400 units no matter if they're Single-Family or Multi-Family. And remember that you're still, even though we're taking this out, out of All Other Multi-Family, you're still providing Multi-Family units. So, but All Other Multi-Family of 6.9 percent--and, Kim, I'm going to ask you, let's see we didn't run the gallons per day on that, if you could run the gallons per day for me.

VICE-CHAIR VICTORINO: That's 315 gallons, oh, 315 units. I already figured it all out that's why. I'm asking you if you using 600 that would leave 115 left in the All Other Multi-Family based on the 600...600 gallons per day. So that's what I was asking you, Madam Chair.

CHAIR ANDERSON: No, wait a minute, wait a minute, Mike. What were you saying?

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VICE-CHAIR VICTORINO: If you take right now the present amount of 189,000 or 18.9 percent and you take the 200 units out of the Multi-Family, All Other Multi-Family and you put it in Affordable, which is fine, that would leave 115 units left based upon 600 gallons per unit. You know, so I'm using . . .

CHAIR ANDERSON: And so, 6.9 percent reflects?

VICE-CHAIR VICTORINO: One hundred and fifteen units.

CHAIR ANDERSON: At 600 gallons.

VICE-CHAIR VICTORINO: Yeah.

CHAIR ANDERSON: Thank you.

VICE-CHAIR VICTORINO: So that's all I was asking, Madam Chair, is if that's what you're using so then I understand the numbers.

CHAIR ANDERSON: Right. Right. Right.

VICE-CHAIR VICTORINO: That's all I was trying to get to. Thank you, Madam Chair. I didn't mean to, you know . . .

CHAIR ANDERSON: No, no, no.

VICE-CHAIR VICTORINO: Yeah.

CHAIR ANDERSON: We need to do this.

VICE-CHAIR VICTORINO: I was, I've been sitting here doing all these numbers because based on 600, if that's what we're using, then I'd take that to West Maui and then I'd take it on to the next level. So that I understand if we take 200 and put it in affordable which is fine --

CHAIR ANDERSON: Yeah.

VICE-CHAIR VICTORINO: --that leaves us 115 in Central, 56 based on a million gallons, based on all of this stuff, and this is all based on, and 56 units in West Maui that could be built under multi, All Other Multi-Family based on the 600 gallons per unit. So that's all I was trying to do take the numbers and . . .

CHAIR ANDERSON: Yeah. I appreciate that, Mr. Molina--Mr. Victorino because . . .

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VICE-CHAIR VICTORINO: And again, Madam Chair, I just wanted to get some kind of number in because if that's what we're using then, then at least I have it clear in my mind, and you did bring up the point and I appreciate the differences by areas. And again if we sat here and tried to figure every different area it will take forever and ever. So, you're trying to kind of concise this whole program and make it a general rule instead of a hard fast this is exactly the only amount.

CHAIR ANDERSON: Right.

VICE-CHAIR VICTORINO: So, okay, and I can appreciate that, Madam Chair.

CHAIR ANDERSON: Yeah. And, you know, they may, like Wailuku traditionally uses 400 gallons per day. So, you know . . .

VICE-CHAIR VICTORINO: But Central is considered, our Central system is considered South Maui, too. So, you get the big difference between South Maui --

CHAIR ANDERSON: Right. Exactly.

VICE-CHAIR VICTORINO: --and Wailuku.

CHAIR ANDERSON: So, it depends on where the housing is.

VICE-CHAIR VICTORINO: Yeah. Yeah. Thank you very much. Yeah.

CHAIR ANDERSON: Any other questions, Members? So, I'm going to go for some kind of consensus on increasing the 100 percent affordable housing category or percentage in the Central system to increase that from 12 percent to 24 percent taking the difference out of the Other Multi-Family which would allow us 400 units in affordable housing and 240,000 gallons per day for 600 gallons per day which may end up being even more units depending on how water wise they are. And that would reduce, Members, I'm going from the bill not the chart, that would reduce All Other Multi-Family from 18.9 to 6.9 which would give us how many gallons, total gallons?

VICE-CHAIR VICTORINO: Sixty-nine thousand.

CHAIR ANDERSON: Sixty-nine thousand. Okay. And that would be enough for 315 units. So . . .

VICE-CHAIR VICTORINO: No, correction, Madam Chair, that would, if based on the 600 it would allow us to do 115 units in All Other Multi-Family.

CHAIR ANDERSON: Oh, I'm sorry, I thought I heard you say 300.

VICE-CHAIR VICTORINO: No, that was the original figure you had when you had the . . .

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CHAIR ANDERSON: Yeah, yeah, yeah. Okay. Thank you.

MR. ENG: Excuse me, Madam Chair.

CHAIR ANDERSON: Yeah.

MR. ENG: And, Member Victorino, for . . .

CHAIR ANDERSON: Jump in here guys.

VICE-CHAIR VICTORINO: Go ahead.

MR. ENG: I'm jumping in.

CHAIR ANDERSON: He's our math expert.

MR. ENG: Based on your balance of 69,000 gallons for Multi-Family, and we use as for planning purposes 350 gallons per day for Multi-Family.

VICE-CHAIR VICTORINO: For multi.

MR. ENG: So that would give you about 200 Multi-Family units.

VICE-CHAIR VICTORINO: Okay. Again, you understand, Mr. Ching [*sic*], I was using 600, which the Chair I agreed was kind of like an average across the board.

MR. ENG: Okay. So, we use 350 for Multi-Family units.

VICE-CHAIR VICTORINO: Okay. So that gives us 198 or 200.

MR. ENG: Yeah, around there. Yeah.

VICE-CHAIR VICTORINO: Okay.

CHAIR ANDERSON: Okay. Thank you and that gives us a little flexibility, too. You know I think since we're doing this now would be the...time to find out what Other is. If, if Ms. Kraftsow knows. You know in these categories, Ellen, we have, I don't have it in the bill so if you add these percentages up in the bill, Members, and depending on what system it, it is we're going to be like a half percent short or 1 percent short depending on the system. Because if you look at the chart, either one of these charts, the actual figures for historic use or on our chart here, there is a category called Other. And I'm not sure what that Other is. Maybe it's leakage, maybe it's something that we don't want to allocate into another category. So, if you can just give us an idea of what that is.

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MS. KRAFTSOW: I'm sorry. Other, it depends on how you put these charts together. When our consultant was looking at our use classes he made one called General that was mixed use properties where we couldn't determine what percentage exactly were Single-Family or Hotel or Commercial. But, you know, Other could also be if it's coming from our billing system could also be--what do they call 'em deduction meters?--which are...have to do with irrigation and stuff. So, I don't know how you put these numbers together, Madam Chair, so I can't say . . .

CHAIR ANDERSON: Well, it's just taken directly from your billing. So, if it was something that he could not categorize for those reasons it went into Other. So, I think, you know, Members, we'll just leave it as it is, you know, that's 5,000 gallons in Central representing a half percent. And it is 1 percent...that's not 1 percent. What is that? I'm sorry it's 5 percent in Central, 1 percent in West Maui representing 1,000 gallons. In Hana it's 4 percent representing 4,000 gallons. In Molokai it's 1 percent representing 1,000 gallons. So, I think we'll just leave it as it is and not mess with it. Okay.

Okay. So, can I get any consensus from you folks in regards to moving 12 percent from all, from Multi-Family into 100 percent Affordable giving us 400 units? Any objection? Huh?

MS. WILLENBRINK: In Central?

CHAIR ANDERSON: In Central, yes. Any objections?

COUNCILMEMBER BAISA: Chair?

CHAIR ANDERSON: Ms. Baisa.

COUNCILMEMBER BAISA: I have a question before I get into this consensus thing. Do you intend to try to move this bill out of Committee today?

CHAIR ANDERSON: Yes, I do.

COUNCILMEMBER BAISA: Well, I personally am kind of concerned because I don't feel that I've had time to mull over this matter enough particularly since the changes that we, we're making as we go. And, you know, I just feel that, you know, when we try to do this like we did with the last bill that we, you know, hurriedly moved out of Committee, and, you know, when you have time to reflect on it and you think about it then, then all the questions come up and it's too late. And it's not a good thing to do at first reading to try to ask all the questions that we should ask now. So, I just wanted to tell you I have some discomfort with it.

CHAIR ANDERSON: Well, it's just, you know, setting aside water for the uses that we all have talked about as being a priority. I've heard you guys tell me in this Committee when we talked about the Water Availability Bill that you wanted water allocated to affordable

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housing and so that's what this is. And, you know, if you don't want to put your water where your mouth is, then I don't know what I can say because how much, what is there to discuss? I mean either, either we make this policy decision or we don't. And, you know, the bill has a sunshine [*sic*] date. The bill has the opportunity to amend these provisions or these percentages. And how many times are we criticized for not making decisions and moving on legislation in a timely manner?

So, I understand you might want to hear more from the development community, but I'm here on behalf of the resident population who needs housing. And I'm ready to move this forward, because we've got, we've got nonprofits out there who have been working for months to bring forward true affordable housing for our residents.

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR ANDERSON: And they want to build now. When new water comes online, if they don't get a shot at it, there goes the affordable housing. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Can we just say that taking a look at the Workforce Housing Policy that any affordable housing project you can base 'em by income levels that would be sub...not subject but will be exempt. So that at least we know that they're going to get water, any affordable housing project.

CHAIR ANDERSON: Exempt from this project, from this, from this bill?

COUNCILMEMBER PONTANILLA: No, no, from the Workforce Housing rather than saying...I'm sorry, not the Workforce Housing, but the Water Available [*sic*] Bill.

CHAIR ANDERSON: Well, not really because if the whole, the Water Availability Bill is all about having water available to build. And if there isn't water available, how can we commit, commit, how can we exempt them? Because then they go ahead and build and there's no water for 'em.

COUNCILMEMBER PONTANILLA: Yeah. I'm, I'm...you know, you looking at development. What about the County of Maui when we develop our own source?

CHAIR ANDERSON: Well, yeah, but we're looking at five years down the road.

COUNCILMEMBER PONTANILLA: Well, . . .

CHAIR ANDERSON: I'm just trying to look at what we're going to do in the next year to use the water that's coming online --

COUNCILMEMBER PONTANILLA: Maybe . . .

CHAIR ANDERSON: --for the affordable housing that's out there.

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COUNCILMEMBER PONTANILLA: Maybe the Director can give us some information when we going get water for this County.

CHAIR ANDERSON: And, well, we just discussed that. And I would also mention once again that if we pass this bill, then there would be water allotted for various categories that would help with people who have to comply with the Water Availability Bill.

COUNCILMEMBER PONTANILLA: Yeah, but we depending on developers most of the time to develop this water source.

CHAIR ANDERSON: Well, I mean that's the way it's been immemorial and we can't all of a sudden now say that we're trying to allocate or allot water that's coming online. It doesn't matter who developed the source. The County's been part and parcel with it and we will be operating and maintaining it. And so, I think we should have a say on how, on who gets to use it because it is a limited source. But if this body doesn't feel like, you know, taking the leadership and making the policy decision on where we new, use our new water sources then so be it that this is something that the Department wants us to do and the Administration wants us to do, and the affordable housing community who's building true affordable housing wants us to do to safeguard for them a portion of the new source.

COUNCILMEMBER PONTANILLA: So, maybe the Department can tell us, you know, other than the ones that you talked about Maui Lani and so forth, what are we doing as, you know, trying to look for new sources?

MR. ENG: Madam Chair, I think that's a subject that, you know, we can have discussion at a future meeting. And even if . . .

CHAIR ANDERSON: It's not on our agenda so we're not going to go into that.

MR. ENG: But if I may make a suggestion and this is in discussions I've had with Ellen. A lot of this allotment schedule is a bit confusing and complicated, because we could debate over every class of customer what would be a fair allocation. I think though we are all in agreement that affordable housing and housing in general and maybe even public facilities like schools should have high priority. If you look at like the Central and West Maui, if you look at just what we're talking about the various housing components including Multi-Family, you've got about 62 percent of the allocation right there. And if we add maybe another 10 percent for maybe government which is I believe basically schools and other public facilities, we basically set aside or allocate, you know, around 70 percent for those kinds of projects, and the other remaining 30 percent to come in as the market bearers. So that would still continue on the first come, first serve basis but we don't get bogged down with these little intricate details. But basically, we do protect those projects that most of us all agree on that we want to see go forward and they have water.

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COUNCILMEMBER PONTANILLA: That would be real simple.

CHAIR ANDERSON: Well, that, that is a, you know, a fair suggestion and that's something we could easily do. It's just that, you know, we're allocating specifically for affordable and government and then we're leaving it all open on a first come, first serve basis for the rest of the categories such as Commercial, Hotel, Industrial, Agriculture. And, you know, these percentages, remember, on all these categories are the traditional or the historic categories. In other words, these reflect a trend of use, a long-term trend of percentages. And so that's why I felt it was fair to allocate those percentages. But if we don't put percentages to those other uses, then it's likely that maybe commercial and hotel people might say, well, you know, that's not fair that you're not allocating for us our fair share and allow some big hotel to come in and take up all the, you know, 500,000 gallons that's left for us in the one million gallon allocation or new source.

So, you know, I'm just trying to do something you guys that's proactive and progressive. And something you've all been asking for for the last two years. Let's save water for affordable housing. And like I said, you know, you can amend this in six weeks time if you find that some of these categories aren't working. And the Director is going to come forward and tell you that. You know nobody in their right mind is going to start putting money towards the development of some kind of project unless they come to the Department and say, you know, I want to do this big commercial. And, Members, I might add we've already got zoning entitlement all over this island for projects in every single category practically that don't have water and can't go forward. The airport hotel in Central Maui, they don't have water, and they've had zoning entitlements for five years plus.

So, you know, this would helpful to those kind of projects, too, because they would be shared, they would be assured to get their fair share.

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR ANDERSON: Yeah.

COUNCILMEMBER PONTANILLA: Thank you. Probably off the subject in regards to the Water Use Development Plan you say it's going to be brought forward to this Council or the next Council sometime in 2009, June. And it's going to take another six months to either approve, disapprove whatever is being planned. I was just wondering if the Department can tell us what is the projection in regards to water from now until we approve the Water Use and Development Plan and taking a look what we need to do to provide new sources, what is the projection?

MR. ENG: If you look at our historical demands, you know, in fact I was looking at this last year when I was trying to do an analysis of where we're going as far as Central Maui demand. You know that was increasing at a rate of, you know, three-quarters of a million

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gallons per day per year. However, due to the success of our conservation pleas, you know, in this past 14 months or so we've reduced Central Maui demand by 1.7 million gallons per day. So, I can't give you a really good projection of where we'll be in by next spring or even a year or two from now. You know, I think the results of conservation is proven itself, but we don't, we're not really quite able to quantify it at this time. But the conservation is really the key for us to be able to continue what we're doing and supporting this economy so but I can't give you an exact answer.

COUNCILMEMBER PONTANILLA: Thank you. Thank you again, Chairman. And I think, you know, a lot of us over here this morning are really looking at, you know, how do we provide water for affordable housing and I think that's the main objective. You know earlier we talked about giving the Department some discretionary in regards to utilizing waters that are not being used by the different categories for other things and maybe for more affordable housing. So, I just want to leave you with that. Thank you.

CHAIR ANDERSON: Yeah. Thank you, Mr. Pontanilla. You know, basically the purpose and function of this bill is to prioritize water for affordable housing, for 100 percent affordable housing at 120 percent and below. And these are the affordable projects that Lokahi Pacific is developing, Na Hale O Maui is developing. All our nonprofits are putting the efforts into developing. So, either you set aside the water for their needs or you don't.

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR ANDERSON: So, I'm going to ask you because we're at lunch and I don't want to waste time making amendments to this ordinance for increasing the units in affordable and also maybe allowing projects that stand alone but are part of a larger development if they have their own source to be included such as the Honua'ula project. So, I am going to entertain a motion on this bill and if I don't get it, then we won't continue discussing it.

COUNCILMEMBER PONTANILLA: Can I make a comment?

CHAIR ANDERSON: Yeah.

COUNCILMEMBER PONTANILLA: Thank you. You mentioned the Lokahi Pacific project. And the way I understand it, the Lokahi Pacific project is going to come through the 201H process, you know, that's the last I've heard. And part of the development is also part of a larger project in regards to that particular development so I thought I'd just pass that to you.

CHAIR ANDERSON: Well, that's one of the amendments I was suggesting that we make is adding in under 100 percent affordable housing as this definition means an affordable housing project that is not part of a larger development, unless that larger development has its own supply of water and contains only residential workforce housing units rented or sold to residents between 100 and 120, I mean 50 percent and 120. So that way if, you

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know, if the Lokahi Pacific project is fulfilling, and it's a stand-alone 100 percent project, but it's helping to fulfill . . .(change tape, start 3B). . . workforce housing requirement of a larger development which includes market-price housing, then as long as the market-price housing project has their own source of water, such as Honua`ula, then that stand-alone affordable housing project that is part of a larger development in that it's a requirement that they're fulfilling, then they would qualify for this 100 percent affordable water allotment.

So, Members, is there anyone wishing to entertain a motion on this bill?

VICE-CHAIR VICTORINO: I'll move, Madam Chair, just for the sake of discussion. I move.

CHAIR ANDERSON: Move to accept --

VICE-CHAIR VICTORINO: Accept, yeah.

CHAIR ANDERSON: --a bill for an ordinance relating to new sources of water?

VICE-CHAIR VICTORINO: Yep, I'll do that.

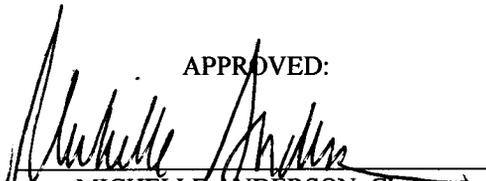
CHAIR BAISA: Thank you, Mr. Victorino. Any seconds? . . .(silence). . .

Okay, Members, this bill dies for lack of a second. Water Resources meeting of November 17<sup>th</sup> is now adjourned. . . .(gavel). . .

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

**ADJOURN:** 12:03 p.m.

APPROVED:

  
MICHELLE ANDERSON, Chair  
Water Resources Committee

wr:min:081117

Transcribed by: Cathy Simmons

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CERTIFICATE

I, Cathy Simmons, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 10<sup>th</sup> day of December 2008, in Wailuku, Hawaii.

  
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Cathy Simmons