

# **WATER RESOURCES COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**November 30, 2016**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 9:04 a.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Gladys C. Baisa, Chair  
Councilmember Robert Carroll  
Councilmember Elle Cochran (in 9:12 a.m.)  
Councilmember Don Couch (in 9:10 a.m.)  
Councilmember Stacy Crivello  
Councilmember Mike White

**EXCUSED:** VOTING MEMBER:  
Councilmember Michael P. Victorino, Vice-Chair

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

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** David Taylor, Director, Department of Water Supply  
David Goode, Director, Department of Public Works  
Paul Haake, Captain, Fire Prevention Bureau, Department of Fire and Public Safety  
Jennifer M.P.E. Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Ken Redstone  
William Jacintho, President, Maui Cattlemen's Association  
Tom Croly  
Eric Romanchak  
Lisa Starr  
Rosemary Robbins  
Sherman D. DePonte  
(4) additional attendees

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

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CHAIR BAISA: ...*(gavel)*... Will the regular meeting of the Water Resources Committee please come to order? Today is Wednesday, November 30<sup>th</sup> and it's a little about four or five minutes after 9:00 in the morning. And I'm the Chair of the Committee. I'm Gladys Baisa. And with me this morning, we have most of our Committee here. We have Bob Carroll from East Maui.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR BAISA: Good morning. We have Council Chair, Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR BAISA: Good morning. And we have Stacey Crivello from Molokai.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR BAISA: Good morning. And shortly we have with folks that'll be joining us, we have Elle Cochran who will be coming, and Don Couch who's coming. And excused this morning, 'cause he's away on the mainland, is Mr. Victorino, my Vice-Chair. With us from Administration, we have Dave Taylor, the Director of Water Supply.

MR. TAYLOR: Good morning.

CHAIR BAISA: Good morning, and we have Jen Oana, who is our Deputy Corporation Counsel.

MS. OANA: Good morning, Chair.

CHAIR BAISA: Good morning and thank you for being here. Also in the audience, we have Dave Goode, the Director of Public Works. Hi, Mr. Goode. Thanks for coming by. And we will have shortly, Mr. Paul Haake, from the Fire Department joining us, representing Chief Murray. We also have our Staff this morning. We have Kimberly Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR BAISA: And we have Clarita Balala, our Committee Secretary. In our District Offices, we have Dawn Lono in Hana, Denise Fernandez in Lanai, and Ella Alcon in our Molokai Office. Members, we have...before I move on let's take a minute to check the cell phones and make sure that they're on silent mode. And then we can move on. Members, we have two items on our agenda today. One relates to fire protection mainline infrastructure improvements for the Upcountry water system. And the other relates to three items to be referred to the Council Chair for the next term. We will begin by taking public testimony. Testimony will be limited to the item on our agenda today. If you wish to testify, please sign up at the desk located in the lobby outside of the door. And if you're at one of the District Offices, you can sign up there. Testimony

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is limited to three minutes and upon request up to one minute to conclude. At three minutes the light will turn yellow and at four minutes the light will blink red. If you are still presenting testimony at the four-minute mark I would kindly ask you to stop. When you are testifying, please state your name and who you are representing, if you represent anyone else besides yourself. We have established a connection to the District Offices. And to be fair, we will rotate through each of the sites. Good morning, Mr. Haake. And would you be so kind as to tell me your title? I never can remember.

MR. HAAKE: Good morning, Chair. I am the Captain of the Fire Prevention Bureau.

CHAIR BAISA: Okay. So we got that straight. He's the Captain of our Fire Prevention Bureau. Thank you for coming this morning, we really appreciate you being here. We're gonna check with our District Offices and see if they have anybody wanting to testify. Hana Office, Dawn Lono, do you have anyone wishing to testify?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

CHAIR BAISA: Thank you very much. And in our Lanai Office, Denise Fernandez, do you have anyone wishing to testify?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR BAISA: Thank you. And in our Molokai Office, Ella Alcon, do you have anyone wishing to testify?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one waiting here to testify.

CHAIR BAISA: Thank you very much, Ella. Ms. Willenbrink, let's start with testimony in the gallery. Members, without objections, can we begin?

COUNCILMEMBERS: No objections.

CHAIR BAISA: Thank you very much. Okay. Let's go.

MS. WILLENBRINK: Thank you, Madam Chair. The first person signed up to testify is Ken Redstone. Ken will be followed by William Jacintho.

CHAIR BAISA: Ken? Are you Ken?

MR. REDSTONE: Yes.

CHAIR BAISA: You go that a way and down to the podium if you don't mind.

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MR. REDSTONE: . . .*(inaudible)*. . .

CHAIR BAISA: I'm sorry. I guess this is the first time.

MR. REDSTONE: It is. Thank you.

CHAIR BAISA: You're most welcome.

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

CHAIR BAISA: Good morning.

MR. REDSTONE: Good morning.

CHAIR BAISA: If you'll introduce yourself.

MR. REDSTONE: My name is Ken Redstone. I live in Haiku. And I wanted to testify in favor of the proposed amendment. It was just last week that we had Thanksgiving, although it seems like a while ago. And after dinner, this old friend of mine brought up the subject and he was asking me about how possible it would be for him to build another structure on his property. And he was hoping I would have some good news for him or be able to tell him something about the Code. He owns an undivided interest in 11 acres. And he started a family rather late in life. And now he has two young boys. So he's starting to think about how he can pass his property onto his progeny. And because it's an undivided interest, right at the moment, he's not able to build any more structures. So I realize that this meeting was happening and it really brought it home to me. That I've heard similar stories from other people but this was so recent that it made me want to come and testify. I live in Haiku, as I mentioned, and just a couple of years ago we built a barn on my property. And I was given the option of either putting in, I think what they call a dry hydrant, or doing a fire sprinkler system for the barn. So I did a lot of research regarding this to try and make up a decision 'cause it's pretty expensive either way. And what I learned is that because of our distance from the fire station, the...they call it a protection class that the insurance company has is 10. And so I understand that that means they're figuring that if there's a fire, our barn's gonna burn to the ground before anyone can come. And that has to do with the response time. So I decided to do the fire sprinkler system because of the response time. So it made sense to me, the way that this ordinance allows people the option of subdividing and passing the property onto their children without the really onerous expense of doing a full fire protection according to the subdivision law. But they still, when they build, they still have to put in something like a fire sprinkler system. So the safety is there. But then the option of dividing is more likely. And so this made a lot of sense to me. And that's why I came to testify. And I'm also hoping that in the future if this passes, that this option might be extended to everyone on Maui. And, you know, I think there would be a safety benefit and also benefit for the residents. Thank you.

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CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Any questions? Seeing none, thank you very much.

MR. REDSTONE: Thank you.

CHAIR BAISA: Chair would like to note the presence of Ms. Cochran and Mr. Couch.

COUNCILMEMBER COCHRAN: Good morning. Thank you, Chair.

COUNCILMEMBER COUCH: Good morning.

CHAIR BAISA: Good morning. We told them that you might be a little late.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR BAISA: Traffic's bad today. Mr. Jacintho? Good morning.

MR. JACINTHO: Good morning. Good morning, Chair Baisa, Chair Victorino, and Members of the Water Resource Committee. My name is William Jacintho, President of the Maui Cattlemen's Association, here today to support the intent of the proposed bill on helping Maui County families with housing in their properties. We'd like to see three lots instead of two-lot restriction. As long as the lots have enough room for the requirements. And if not for all subdivisions, at least for family subdivisions. This bill changes the number of allowable lots to what the Planning Department has in place and makes it possible for families to be able to provide their own affordable housing. If an approved home fire system is in place for one or two homes and is proven safe, I really don't see any problem if there will be a third lot. The systems all isolate their own problems in the area. Thank you for the opportunity to testify on this proposal. The Maui Cattlemen's Association is a nonprofit organization representing small and large livestock producers in Maui County. I did have another, a --

CHAIR BAISA: Go ahead.

MR. JACINTHO: --little question extending from the testimony on how the fixture bill would work on these things if that's a connection or separate concern or what?

CHAIR BAISA: Okay. We'll, have, discuss that --

MR. JACINTHO: Okay.

CHAIR BAISA: --later with the Water Director.

MR. JACINTHO: Thank you.

CHAIR BAISA: Thank you. Members, any further questions or clarifications needed? Seeing none, William, thank you.

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MR. JACINTHO: Thank you.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: The next person signed up to testify is Tom Croly. Tom will be followed by Eric Romanchak.

CHAIR BAISA: Good morning, Mr. Croly.

MR. CROLY: Good morning, Chair Baisa, and thank you for your chairmanship of this Committee. And I know this will be your last chance there. And I know you've tried to do good things for the people of Maui and I appreciate that.

CHAIR BAISA: Thank you.

MS. CROLY: I've been here at this podium for several years now, talking about the fact that we need to make changes in this Chamber to our Code to facilitate easier-to-build housing. Liberalizing this particular part of the Code will help accomplish that in a manini way for a few places. So I urge you to take this...to pass this measure that's before you today. As we've heard, when we discussed this before, this fire flow is not about lifesaving, this particular issue is about keeping structures from burning down and not allowing the fire in one structure to spread to another structure. But I appreciate that we have the Captain of Fire Prevention here, because fire prevention measures would pay a much higher dividend in terms of safety and in terms of not allowing things to spread than this idea that we have to have an eight-inch waterline in front of every structure. Sure it's nice to have. But if that's preventing families from being able to build housing for their people, then can we let that slide somewhat? I do want to point out that throughout Maui, most of our housing, does not meet the current Code. I live in Maui Meadows. Maui Meadows doesn't have eight-inch waterlines in front of all of our houses. We're patch work kind of set up in there. And people have been held up from building just another garage on their property because we have this exemption for the first two structures, but not for the third and so forth. So again, we need to use some common sense. When we lay the law down hard and say we have to do it this way that the price that we pay for that is we've driven up the cost of housing for our residents. And that's...that really has to be one of the goals that we think about. And we need to change the laws here in this Committee, in this Chamber, before we're going to be able to bring down the cost of building housing. That's the comments that I have to make about this. I fully support this measure. I think that it's been well vetted when you did it the first time and you allowed it to split into two. I don't...I think that aligning it with the family subdivision rules just makes sense. So I hope that we take that action today. Thank you.

CHAIR BAISA: Thank you., Mr. Croly. Members, any need to clarify the testimony? Any questions? Seeing none, Tom, thank you. Ms. Willenbrink?

MS. WILLENBRINK: Thank you, Chair. I believe I stand corrected. Eric Romanchak, followed by Lisa Starr.

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CHAIR BAISA: Good morning, Judge, welcome.

MR. ROMANCHAK: I'm so tempted to say good morning, Gladys, but--

CHAIR BAISA: It's okay.

MR. ROMANCHAK: --no, good morning, Ms. Chairman. And to the Councilmembers who are here and are hearing things that I know have been brought to the attention of not only the Council, your Committee, the Fire Department, Public Works. I'm thankful that the persons who have spoken before me have sort of summarized, I think, all of the topics and issues that have come out throughout the discussion to address the exemption that is in place and now is the...that the proposal is to amend it. So thankfully I don't have to go through that. I know that the Committee is well aware of all of those things and the comments were well said. I'd be remiss not to say something to you directly and that is...congratulations I don't think is quite the right word we know that this is an end of a term for you of public service that I've certainly enjoyed every time I've had to talk to you about things. I know others have too, so. Just the best of luck to you as you move forward. To the rest of the people here, I extend my condolences. We're losing somebody who is so adept at dealing with the public, that's it's just a pleasure always to work with your office. And we're gonna miss you. And I assume that the Council's gonna miss your service as well. Moving onto the subject at hand.

CHAIR BAISA: Yes, please.

MR. ROMANCHAK: I would agree with the speaker just before me that this idea of an exemption that has been explored that was enacted last year, it does make sense when you look at the Fire Code and you look at other issues with further development and building on Maui. For Upcountry people who are stuck with the water meter issues that have been with us for so long, this is just one little step into, I think, addressing the issue in a way that makes sense. It is clear, and, you know, from many people who've come to testify, that, you know, the Fire Code just does not work for some areas Upcountry. And it doesn't work for the Water Department either, when you think about it. If we were still required to stick to the requirements of the Fire Code, as far as fire flow and the waterline, as far as the County is concerned that should be in place. It is a burden on so many people that something needed to be done. And I think this is a step in the right direction. And I hope everybody here, at this point, is on board with it. I clearly support the issue and in the particular case of my family and others that I know well and who have followed this for many years, it does give them some hope of being able to move forward if and when they ever get offered water meters. And for some of us that may be sooner than later, we hope. But I commend you for all of the work that's gone into this, starting way last year through this year, getting to this point. And so I certainly urge this body to give it the consideration it needs. And that it's...that you're able to pass it through the Council. Again, thanks for the time.

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CHAIR BAISA: Thank you very much, Judge. Hold on a minute. Members, any need to clarify the testimony? I guess you did a good job.

MR. ROMANCHAK: Thanks.

CHAIR BAISA: Thank you so much. Ms. Willenbrink?

MS. WILLENBRINK: Our next testifier is Lisa Starr. She will be followed by Rosemary Robbins.

CHAIR BAISA: Good morning, Lisa.

MS. STARR: Good morning. Aloha, Chair. I'm Lisa Starr. I can't improve on how Eric...Judge Romanchak praised you. And I just do want to say thank you so very, very much from an...a citizen who appreciates you profoundly for the way you've been with the public and with issues that have been difficult. You...saying you'll be missed is an understatement. And I hope that any other Councilmembers can rise to your esteemed quality of work in the future. Okay, that's enough about that. But I just been thinking so much about this last week or two and thinking how much we'll miss you. So I am in favor, again, of this, now amendment to the Ordinance 4255. And as Eric, Judge Romanchak said that this certainly has been well vetted by those who know a lot more than I do. My only comments here would be that, as I understand, this is specifically addressed to those property owners on the Upcountry water meter list and it's...does not extend to property owners beyond those who are on the priority list, yet the issue is no different for somebody in Haiku, Huelo, Hana, Kipahulu, Kaupo, who wish to also be able to do two and three family subdivisions or subdivisions for whatever purpose, which others have stated is such a positive...has many layers of being positive. The most recent estimate that I've gotten, I and my son have been trying to subdivide our property for 10 years now, and I just keep getting an extension because we can't afford the cost of the 60,000-gallon tank, et cetera, et cetera. The current cost is about \$250,000 to put in the tank, the pumps, the hydrants, the extension lines, and everything. And we just...this isn't for profit to divide our property, it's for family planning. And so I would just ask that hopefully, once...if this is approved, after all of your careful analysis that in the next year, in your absence but with these other wonderful Councilmembers, you'll consider, relooking at this one last time and say, okay, let's strike only for Upcountry priority list and include everybody. Thank you very much.

CHAIR BAISA: Thank you very much, Ms. Starr. Hang on a minute. Members, any need to clarify the testimony? Seeing none, thank you.

MS. STARR: Oh, could I add one small thing?

CHAIR BAISA: Sure go ahead.

MS. STARR: Sorry. Yeah, the, I have a copy of the proceedings of a variance from 2014 proposed by Laf Young. And, in Haiku, in which there was a variance for a exemption

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to fire protection and it did say that the...anyway, they approved the type of fire suppression that's being proposed in the 4255 ordinance, in a variance. And I haven't had the time to really look to see if there are other variances that were approved for the same purpose. But the fact that it was approved, let's me believe that that would be the other avenue. And we all know that that's not the preferable avenue. Thank you.

CHAIR BAISA: Thank you, Lisa. By any chance, do you have your testimony in writing?

MS. STARR: I don't.

CHAIR BAISA: When you have a chance, could you send that to us?

MS. STARR: Okay.

CHAIR BAISA: 'Cause we have time before we finalize this, so.

MS. STARR: Okay.

CHAIR BAISA: It would be good to have that.

MS. STARR: Okay.

CHAIR BAISA: Thank you.

MS. STARR: I'll do that gladly, thank you. Aloha.

CHAIR BAISA: Thank you. Okay, Ms. Willenbrink?

MS. WILLENBRINK: Our next testifier is Rosemary Robbins. And the final person signed up in the Chamber to testify is Sherman DePonte.

CHAIR BAISA: Good morning.

MS. ROBBINS: Good morning.

CHAIR BAISA: It's sweater day today.

MS. ROBBINS: Yes. In and out. Good morning, everybody. Rosemary Robbins, concerned citizen. I was at a huge funeral yesterday at St. Josephs. One of the DeCoite's, and many people when they had heard that this was coming up said, how about those of us whose families are gone, you know, they've relocated. Done their schooling elsewhere, decided to stay in those places, et cetera. And there is no potential of subdividing for anybody coming in. So the question is, what happens to the person, primarily the widows, who has one house, does she or he, if the case may be that, have to spend the big money that was just heard, in order to put in something in their house? So those folks, I told them to watch this morning and see if we can get that

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answered. They're not an issue, they're not water meter waiters. They just want to be at peace that they can continue to live. The grey water we've talked about in the past, lots of good stuff that has been already brought up. So I would be happy to know that they will be able to just hear that this does not apply to them. They do not have to pay a huge amount to be able to outfit their house with something that they're not gonna have any need for. So that would be very helpful for them to be able to hear that. So thank you.

CHAIR BAISA: Thank you. Many of us share that concern. And I think that's the work we're trying to do here and we've tried to do all year, is to see how we can make things easier for folks so that they don't have to worry. Members, any need for clarification? Seeing none, Rosemary, thank you.

MS. ROBBINS: You're welcome. Nobody can blame you for not having tried.

CHAIR BAISA: Thank you.

MR. ROBBINS: Right. Take care, all.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, our finally person signed up to testify is Sherman DePonte.

CHAIR BAISA: Well, good morning.

MR. DEPONTE: Good morning. Good morning, Chair Baisa, Commission. It's heartfelt, as far as we thank you so much for all your service. I gotta say mahalo nui loa. Aloha nui loa. She's not gonna be away. She will be here. Always in spirit and her body will be here testifying for this. In any case, I think I said my name, Sherman Dudley DePonte. I'm a homeowner on 17529 Haleakala Highway. I've been in here since 1992, ever since I bought my property. And it was supposed to be a...and my property is zoned for Rural zone. The properties that is involved in this and getting held up is all zoned as it was zoned from way before. We're not asking for new zoning. We're just asking for our water. And be able to subdivide to do with what our zoning allows us. I have, you know, my example has been basically this, let's put...for mine it's been, now it's...it was 3.8 million, now it's down to 3.1 million. We're going in the right direction but still something that I cannot afford. We take that fire hydrants, we take that 8-inch line, we put that 120,000 gallon tank over there and what I said is let's put, let's get ridiculous and put 10 fire hydrants in my...on my property all the way up the drive way. And let's see if...see what happens with that. This is all County...this is the County is liable on this side. And let's take this side and just do private fire protection sprinkler system. Five thousand to, say \$30,000 on a structure, elaborate. This one here, puts out the fire, when the fire comes on. Takes care of that structure. We've been...Don Couch asked, it's 90 percent of the fire out. That's serious, 90 percent of the fire is out with this one. This one here, if there's someone that cannot get out of the house, God forbid, it's...this one will save the lives of that person. This on this end, there's for my house, it's 35 to 40 minutes before they reach

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there, after the call. So say 15, 20 minutes, you see the house on fire, the next door neighbor, by the time they get there, it's an hour or something. It's been asked, what is left? You putting out ashes, basically, you know, dousing ashes. So the main thing on this is this one works, that one don't, this one is liability to the County, this one is not. And I'm saying let's go with this one. We have the extra...as far as for the extra meters. It just makes sense. We had the three lots or less subdivision ordinance before. We can do it again. And that's for families to save and to Upcountry. We've been neglected Upcountry. And also expand it to the rest of the County. I propose that it goes beyond just that meter list. We need it for the whole County. Let's be fair with everyone. This country's going through changes, this Council's going through changes. Let's move in the right direction. And do that changes to satisfy everyone and be fair. The red shirt, well, I was trying to match Gladys this morning. And we're praying, always for changes and better for everyone. And health for everyone. And that's all I've got to say basically. I could go on and on because I've been here since '90...1992, with all of this. And I probably not see you. I'm gonna wish you all Mele Kalikimaka a Hauoli Makahiki Hou for all the holidays. Thank you.

CHAIR BAISA: Thank you very much. And I appreciated when you walked up in the red shirt. I knew. But, Members, any need to clarify the testimony, any questions? Seeing none, Dudley, thank you.

MR. DEPONTE: Thank you.

CHAIR BAISA: And happy holidays. Ms. Willenbrink?

MS. WILLENBRINK: There's no one further signed up to testify.

CHAIR BAISA: Okay. Let me ask one more time. Is there anybody out there who hasn't testified that would like to testify? If you'd like to, please come down, we can do the paperwork later. We don't...we are happy to hear from you if you want. Seeing none, okay. We're going to go to the District Offices and make sure that no one has showed up there. In the Hana Office, Dawn, do you have anyone wishing to testify?

MS. LONO: There's no one waiting to testify in the Hana Office, Chair.

CHAIR BAISA: Alright, thank you. And I won't get a chance, so happy holidays, Merry Christmas. Also in the Lanai Office, Denise, anybody wishing to testify?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

CHAIR BAISA: Thank you very much and happy holidays. In the Molokai Office, we have Ella Alcon, do you have anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR BAISA: Thank you, Ella, happy holidays.

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MS. ALCON: Happy holidays to you too.

CHAIR BAISA: Thank you very much. It appears that there's no one else wishing to testify. So if there's no objections, Members, I'd like to now close testimony.

COUNCILMEMBERS: No objections.

CHAIR BAISA: So ordered.

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

CHAIR BAISA: We'll let Ms. Willenbrink turn the mic off here.

**WR-23: FIRE PROTECTION MAINLINE INFRASTRUCTURE  
IMPROVEMENTS FOR THE UPCOUNTRY WATER SYSTEM  
(CC 16-249)**

CHAIR BAISA: Okay. Members, item one on our agenda today is Fire Protection Mainline Infrastructure Improvements for the Upcountry Water System, WR-20 [sic]. The Committee is in receipt of County Communication 16-249, from Council Chair Mike White, transmitting a proposed bill entitled A Bill for an Ordinance Amending Section 14.13.065, Maui County Code, Relating to Exemption From Fire Protection Mainline Infrastructure Improvements for the Upcountry Water System. The purpose of the proposed bill is to provide that applicants on the Upcountry priority list who are seeking to subdivide, and the subdivision is for three lots or less, and have been offered water meters from the Department of Water Supply, and are able to connect to the existing water system, shall not be required to make further infrastructure improvements for fire protection, subject to certain conditions. Members, you will recall that last October 6<sup>th</sup>, the Council passed Ordinance 4255, exempting applicants on the priority list from certain fire requirements if they wanted to subdivide two lots. Mr. White, since you are the introducer of the proposal, I would ask you if you could open the discussion. And then we will hear from the Administration, their take on the proposal. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know, we...I think we moved the needle a bit when we passed the previous ordinance. But following the passage of that ordinance, we requested the Department of Public Works to provide us with a list of subdivision applications that were pending, in their Department, that were in the Upcountry water meter list area. And the results came back that of the subdivision requests that were pending on 2-lot subdivisions, there were 44. So to put that in perspective, when we passed the initial bill, we impacted just over 2 percent of those 1,800 applications on the water meter list. The recommendation in this bill is to increase that to allow for 3 lots. That would add another 58 applications to be considered. And so that would amount to a total of the 1,800 people on the water meter waiting list, that would amount to a total of 5.6 percent of the...of those that

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have applied for water meters. And so I think this is something that we should be very comfortable doing because it's very small in its scope. But it allows for families who have been on hold, as mentioned, family planning, and kids have grown to age where they have their own families. Parents have obviously aged to the point where we're all concerned that we may not be able to provide for our families as we had planned simply because of fire protection that, as was stated by several of the testifiers, can be provided in another way, that's even more effective than what we're...what we had been requiring. And I would just like to add, Chair, that I do find compelling the request that if this is good for the Upcountry area, for the same reasons that were stated, that it should be something that we may want to apply to others. And I believe the two-lot subdivision bill allowed for that. I'm not sure about that. But if we were able to extend this bill to offer that as well, I think it would be...we would be well suited to do so. Because again, it's an issue of fairness for me. It's an issue of standing back and saying, you know, we have put a bunch of families through a lot of frustration and disappointment and concern for their loved ones. And I don't think it's fair. And I want to thank you for taking the bull by the horns on this. And doing something about it. So thank you, Chair.

CHAIR BAISA: Thank you very much, Chair White. Thank you for pushing the issue and introducing the bill. And, you know, as everybody knows, this is the last meeting that I will be chairing as a Member of the Council, and the Chair of the Water Resources Committee. But I am really committed. And as Mr. DePonte surmised, I am not dropping the issue. And I will not be here as a Councilmember but I certainly am here as a consumer. I am on the water meter list. I live Upcountry. I totally can understand the pain that families have in trying to settle their estates so that they can rest and know that it's done. And I think it's something that this Council has to commit to doing. We've postponed too many decisions too long. And people are hurting and this is why we have affordable housing problems. What is more affordable than being able to take the land that you own, and divide it and give it to your kids, without them having to figure out how to pay a whole lot of money, for a piece of land which they can't afford. Or if we stick with the current policy, having to put in hundreds of thousands of dollars of improvements. And they can't afford it. It's so frustrating. You know, I don't know about anybody else, but I have great sentimental attachment to the land that my sister and I inherited from our parents and our grandparents. We know how they struggled to get their hands on that land at earning a dollar a day. They saved money and bought land. But their intent was that it would be passed down. But how do you pass it down when you're stuck in all this regulation that we have?

COUNCILMEMBER WHITE: Right.

CHAIR BAISA: So I really want to thank you, Chair, for pushing the issue. And I'll see how far we can take it. And if I am not successful in moving it out, I'm gonna give it back to you to give to our next Water Chair. And I'll be there to dog them into getting this thing through because I think it's important. Okay, let's get some of the Administration's \_\_\_\_\_ concerns and ideas about how they'll react to this proposal. I'd like to start with our Water Director, Dave Taylor. And after Mr. Taylor I'd like to have

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all of them have the opportunity, after Mr. Taylor I would like to ask Mr. Goode if he would just address us for a little while. He doesn't have to stay with us through this whole meeting because his role here today is not a big one. But I'd like to have him speak so that he can say what he has to say and then he can go back to work. 'Cause we have a lot of other work that he's doing. So, Mr. Taylor, let's start with you.

MR. TAYLOR: Thank you, Madam Chair. And thank you, Chairman White, for bringing this forward. As was discussed in the previous go around on this bill, the Department of Water Supply does not have a problem or is not advocating for or against this bill. It's really a fire prevention bill. In general, I know I read a national study once, it said something like half of the cost of water systems is for fire protection. Essentially the water system does two things. It's a piping and tank system that allows us to have domestic water for showers and cooking and toilets and things, at a low level. And then in an emergency mode, has a high capacity to flush an enormous amount of water for a short time. That second half doubles the cost. If there was no issues with fire, essentially all the water systems would be, you know, half the size and half the cost. This is really about that second half. About the need for fire protection which, although the Department of Water Supply looks at this, it's really about fire protection. So we don't have a strong concern or not. If it's okay with Fire and Public Works, it's certainly okay with us and we'll administer it.

CHAIR BAISA: Thank you very much, Mr. Taylor. You know, when we passed the 4255, included in it were some exemptions for Public Works. And so I knew that the question was gonna come up about Public Works. So Director Goode has graciously agreed to be here this morning to tell us his thoughts on this. Dave, if you would.

MR. GOODE: Thank you, Chair. Good morning, Members. David Good here, Director of Department of Public Works. Like Mr. Taylor, our Department has no problems with the proposed bill. It is, in my reading as well, also about fire protection. The previous bill that was passed, I think you said it was Ordinance 4255, also had provisions relating to roadway improvements. That is not in this bill. And that too is fine with us. If the Council is interested in also addressing roadway improvements, we would suggest that be handled as a separate item, Chair, because it would involve a much longer discussion in our opinion. So we're content with the bill as proposed and, from our side, it's primarily a fire issue. Thank you.

CHAIR BAISA: Thank you, Mr. Taylor [sic]. Members, questions about what Mr. Goode said in case there's any need for clarification? Okay. Alright, Mr. Goode, thank you very much for being here.

MR. GOODE: Alright, thank you.

CHAIR BAISA: Did I hear somebody? No? Okay. Well, let's go to the next...the main event here. And of course this is our Fire Department. And we'd like to thank Captain Haake for being here this morning. If you would please comment on the bill. Let's get your mic together.

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MR. HAAKE: Thank you, Madam Chair--

CHAIR BAISA: Okay.

MR. HAAKE: --and Councilmembers. Again I'm Paul Haake, Captain of the Fire Prevention Bureau. Unlike Water and Public Works, we are not an immediate advocate for the bill. When it comes to buildings or doing subdivisions that will have future buildings on them, structures, Fire Department's concerns, you know, initially are access and water supply for fire protection. Those are the things that we look for immediately in these reviews and approvals. And to delete or eliminate the need for fire protection is not in line with what we represent. We do understand that there are situations that call for changes or compromises. So in that case, you know, we were...we came up with some agreements on the initial bill, or law, ordinance. And initially we were set...initially it was, you know, they threw out the number of lots to be subdivided. And then we settled on two. And then we're here today and now we're looking at three. And then maybe next year, we're looking at four. You know, so there are concerns for us. When there's no access and water supply, it's a concern for us.

CHAIR BAISA: Thank you very much, Captain. And, Members, let me give you a little more background. We got together. I always have meetings with my Staff and also with the affected parties before we bring the agendas to the floor, and unfortunately, Chief Murray was with us at that meeting, but he is unable to be here today so he sent Mr. Haake. But what was brought up at that time...we have two little pieces missing today and that's why I think we're gonna have trouble trying to take action today. One of the things that was brought up, and I had Vice-Chair Victorino with me in that meeting, 'cause unfortunately he...well, unfortunately he's not here, but fortunately he is an insurance man. And so he was with us when we had the meeting. And he had some serious concerns about fire insurance. And he had offered to try to get us someone besides himself, because he didn't want to be the expert and the Councilmember, to get us a fire insurance fellow here today. But I guess he was not successful in getting the person here. And I was not aware of that until this morning. So we are missing somebody from the fire insurance industry to explain to us the effect that might be caused by what is...what we are trying to do. And I think that is something that we will want to have before we seriously decide yes or no on this. It's important. So the other thing was Chief Murray was with us and he couldn't be here today. But Chief Murray was very efficient and he did list a...give us a list of the things he was concerned about. And what I'd like to do at this point is to take a very brief recess, at the call of the Chair, we're going to pass out Chief Murray's suggestions to you and to those in the audience, who would like to follow along with us. And we'll discuss each one of them and we'll have Mr. Haake here to help us. So the meeting is going to be in recess at the call of the Chair. . . .(gavel). . .

**RECESS: 9:48 a.m.**

**RECONVENE: 9:53 a.m.**

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CHAIR BAISA: . . .*(gavel)*. . . Will the meeting please come back to order. Members, where were we? Now, I'm lost. Oh, you had an opportunity to review the recommendations from Chief Murray. So I will ask Captain Haaake to comment and then you can direct your questions to him. Go ahead.

MR. HAAKE: Thank you, Chair. Okay. So I know I began by saying we weren't an advocate for the ordinance but we do understand that there are compromises and...that can be made. So we provide the following. So the first thing listed here is...in...to address the lack of adequate access, is the elimination of the exemption for the first and second dwelling review approval, and so that's included in the ordinance. So we appreciate that. In...because that exemption is taken away, we will now have the opportunity to review building permits for first and...for dwellings. And at that time we will be looking to see if we have adequate access and fire protection. Now because the bill will exempt people from putting in fire protection, one of the options to address that is to install fire sprinklers. Okay, so with the exemption we will have the opportunity to install fire sprinklers or as part of this ordinance, you could say that all structures associated with this ordinance be provided with fire sprinklers.

CHAIR BAISA: Members, stop...please stop him if you run into a question. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. And thank you, Captain, for your comments on there. My question is, you know, you talk about access, suppose there's very adequate access to these areas. Still, I think one of the testifiers was talking about, you're generally in these remote locations, are gonna be ending up cooling nails by the time you guys get there. So is access that big of a concern, that far away from a fire station?

MR. HAAKE: Yes, you're correct, we may be...when we arrive the structure may be down to the ground. In effect we're cooling nails. But there may be adjacent structures that need to be protected. Or maybe the fire is still active and needs to be put out. So we definitely have to get our vehicles close enough to that fire to effectively put it out. So adequate access is important.

COUNCILMEMBER COUCH: Okay and then you also say mandate that all structures associated with these new parcels be protected with proper fire sprinkler systems. I thought that was already kind of required in the Fire Code or the Building Code when you build the outside of...for fire protection area. Maybe I'm mistaken.

MR. HAAKE: So currently if you were to come in for a building permit for a single-family dwelling and you did not have adequate access or fire protection, you have a couple of options. You can bring that fire protection closer to your structure. You can provide some fire protection in the form of a water tank with a drafting hydrant. Or you can sprinkler your home. So you'd have those three options. We'd like to see the sprinklers be put in or adequate fire protection move closer. The water tank with drafting hydrant, it provides some challenges for us because that type of system, the truck will stay at the tank or at the connection. Because that system doesn't have much pressure. So the truck needs to stay where the waters provided to provide the

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pressure and then lines extended. So usually when people come in for those types of permits, we try to push the sprinklers, assuming that extending the fire protection, the hydrant, the standpipe, closer to the structure would be more costly.

CHAIR BAISA: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Yeah. Thank you for those responses. And all those responses so far seem to be concerned about the structures. In your...and I don't want to put you in any kind of legal issue, I'm sure Ms. Oana will perk up if I get you into hot water. In your experience in something that far away, how often, you know, 'cause like you said, when you get there you're basically that structure's down but there could be other structures. In your experience, how often would somebody still be in those structures if the one structure is burning down or has burned down? Most likely, at least common sense would say, everybody will be out of the structures. Probably trying to save their structures. So it's not an issue on lives, it's more of an issue on structures. Is that where we're looking at?

MR. HAAKE: Are you talking about adjacent structures?

COUNCILMEMBER COUCH: Yeah.

MR. HAAKE: Yeah. So...well, hopefully they would have working smoke alarms in their house or, you know, be immediately notified about the fire next door. So it's probably unlikely that the people would be in the homes in the adjacent structures. So definitely would be about protecting their home from the fire.

COUNCILMEMBER COUCH: Okay. Thank you. Thank you very much. Thank you, Chair.

CHAIR BAISA: Okay. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. And I like the list. The question in my mind is my recollection was that the fire sprinklers would be required if the fire flow was inadequate to suit the needs of the Fire Department. So the access is an additional request. If...is that correct?

MR. HAAKE: Let's see. In our reviews we're always looking for access and water supply for fire protection. If you're stating that the access issue is an additional one from the previous bill, then yes. You know, in looking at this new bill and trying to address concerns, you know, it was access was mentioned or is mentioned.

COUNCILMEMBER WHITE: Okay. And if I'm reading this correctly, you're saying if you can...if there is adequate access, the sprinklers may not be required after, you know, following your review?

MR. HAAKE: So it's a...

COUNCILMEMBER WHITE: I'm assuming that's in case the fire flow is adequate.

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MR. HAAKE: Yes.

COUNCILMEMBER WHITE: Yeah. Okay.

MR. HAAKE: Yes. So if access is there and you have the fire protection, then the sprinklers will not be required. So maybe I should back up a little bit and talk about the review of a single-family dwelling's permit. So you'll come in, you'll have, you know, your proposed structure. And we'll want to see the access to the structure. The driveway, the roads, and things like that. And then we'll also want to see the location of the fire hydrant or standpipe. And what we do is we measure from that hydrant or standpipe along the route of travel to the structure and the maximum distance for that is 500 feet. So it's really...that's the basic review for that. So if you measure route of travel, first wall of the structure, 500 feet or less, you're good. So that's assuming that access is adequate and fire protection is provided.

COUNCILMEMBER WHITE: Okay. So in the case that there is inadequate fire flow and inadequate access, then they would be allowed to put in...they would allow...be allowed to build the structure as long as they sprinklered the structure?

MR. HAAKE: Yes.

COUNCILMEMBER WHITE: Okay. Yeah. And I'm comfortable with that.

CHAIR BAISA: Okay.

COUNCILMEMBER WHITE: So we can move on to the next one.

CHAIR BAISA: Okay. Captain, couple of things that I wanted to mention. In our meeting that we had with all of us there including the Chief, one of the issues that came up was, or couple of things that were mentioned. One was if we go to three lots, there's the possibility that there could be six homes because it would...might be a home and an ohana. So this idea of having adequate distance and access became very important. And it's not just we're gonna build three houses, or two houses more, or whatever we gonna do. So it could possibly be six. And that brought up concern about making sure that, you know, buildings close by were protected. Another thing that came up during that discussion was that the neighboring properties, when we do this may not be aware. And what if they would be in danger? And maybe Corp. Counsel can give us some information or discuss that. If you're not prepared, Ms. Oana, we can talk about it at another meeting. But we need to bring up all of these things.

MS. OANA: Yeah. I'm not prepared to discuss that.

CHAIR BAISA: Okay. We'll just put it on the list of things for follow-up. Okay, Captain, let's go along this list here.

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MR. HAAKE: Okay. Thank you. Two...

COUNCILMEMBER COUCH: Oh, Madam Chair?

CHAIR BAISA: Mr. Couch, yes?

COUNCILMEMBER COUCH: A response that he gave to, Chair White--

CHAIR BAISA: Sure, go ahead.

COUNCILMEMBER COUCH: --is kinda confusing compared to what is being asked. In here, it's asked that you mandate all structure associated with these new parcels be protected with proper fire sprinkler systems. But you're saying that they already are required if the access is inadequate. Is that right?

CHAIR BAISA: As we understand it.

COUNCILMEMBER COUCH: That's the way I understand your responses. So we don't really need to mandate, unless you're saying if there's a barn, that it has to have a...is that what the Chief is saying here? That if there's a barn or another structure that is not a dwelling, needs to have a fire sprinkler, is that what he's asking for here?

MR. HAAKE: So the two things listed is...I guess they go hand in hand. One is they take away the exemption so we get to review the single-family dwellings. And then at that point, we can determine if access and fire protection is provided. And then we can go the route of the three options that they have. Bring...improve the access, bring the fire protection closer, or provide that drafting hydrant and water tank, or sprinkler your home. And then, so if you take away the exemption, we'll have those options. But preferably, we'd want to be the mandate for fire sprinklers on all the structures associated with this...the use of this ordinance.

COUNCILMEMBER COUCH: Okay. And you're using...I think you're interchanging two terms that maybe, in your mind, are the same thing but in the law are completely different. Structure versus homes. You said homes, then you said structures. According to the law, structures are not necessarily homes. They can be, like I said, a barn or a shed. So you're saying all structures should be fire sprinklered or just the dwellings?

MR. HAAKE: All.

COUNCILMEMBER COUCH: Okay. Thank you. Thank you, Chair.

CHAIR BAISA: Okay. Very clear. Okay, go ahead, Captain.

MR. HAAKE: Okay. Thank you. And then, you know, sprinklers, so we mandate sprinklers with this bill. Then sprinklers will definitely protect the structure if the fire originates in the home. But there's also the threat of fire from the outside, the exterior. Whether

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it be a wild land fire, or an adjacent structure on fire. And so to address that concern, we've suggested some increase in setbacks from property lines and buildings. So increasing the setback from the property lines will ensure that the owner of the home is responsible for protecting their home from threat of immediate and initial threat of fire on an adjacent parcel, say if it was a wild land fire, or a structure that was previously built. And then increasing setbacks between buildings on those parcels associated with this bill will help to alleviate that initial threat that a fire in one structure poses to another structure on that same parcel. So it will give us some time. In...and so for setback to property line we use 30 feet, 'cause that's what...that's the guideline that we use to address concerns that are called into our office about overgrown brush. And we look for 30-foot clearance to structures, initially, all the way up to a 100 feet. And the number for setback between buildings, we get that from the standard for the drafting hydrant and water tank. That one option you can provide as fire protection. So in that standard, they provide a calculation for determining how much water should be provided in that tank. And then also in that standard they say that if you have an adjacent structure that is within 100 feet of the, a structure to be protected, then you will provide more water. So you're...what you're doing is protecting the structure and then exposures. So in that one it says...so it's within 100 feet so we thought 50 feet. So that's where we get those 2 numbers and that's why we suggest the setbacks.

CHAIR BAISA: Okay. Members, any questions about the setbacks? Chair White?

COUNCILMEMBER WHITE: Yeah. I think the setbacks are reasonable. I don't have any challenge with them. But I did have another question on the fire sprinklers. If the fire sprinklers are mandated, then would the review of the first and second structure still be required? 'Cause it sounded like if as long as we mandated that you didn't need the access review or others. But I wasn't clear on whether you were suggesting that that would eliminate the need for a review.

MR. HAAKE: That would probably eliminate the need for review for the first and second dwelling.

COUNCILMEMBER WHITE: Okay. And then I'm assuming that we would be able to do some sort of a variance process if somebody didn't want to do...if there was adequate fire flow in the neighborhood, where the home or homes were gonna be built. There was adequate fire flow, adequate access, that they could go back to the Department and ask for a variance from the sprinklers, if all the other things were acceptable to the Department.

CHAIR BAISA: Captain? Comment?

MR. HAAKE: Sorry, Councilmember, could you repeat that again? I was in thought. I apologize.

COUNCILMEMBER WHITE: No, no. No need to apologize. You would be a wealthy person if you had a dollar for every time we're missing something going on in this place, so. The

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question is if we mandate the sprinklers for all structures that are allowed under this change, would it be possible to have a variance from implementing the sprinklers if the particular property was in an area where there was easy access and the...and adequate fire flow for, you know, for the Department to deal with whatever they needed to deal with? Or would you just...would you still just prefer they all be sprinklered?

MR. HAAKE: That probably...that would be a possibility. You know, maybe we could do the bill with, if it comes in for the review, but if it does not meet the requirements for access and water supply, that the only option is fire sprinklers.

COUNCILMEMBER WHITE: And I think that makes a lot of sense, Chair.

CHAIR BAISA: Yes, it does.

MR. HAAKE: Instead of, you know, the 1142 drafting tank.

CHAIR BAISA: Right.

MR. HAAKE: Right.

COUNCILMEMBER WHITE: Okay.

CHAIR BAISA: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Yeah. Thank you, Madam Chair, and I kind of agree with that. Instead of having them come in for a variance, because the variance process is not an easy process either. That the language that the Captain had might be the best way to do it. As far as setbacks are concerned, you know, I'm fine with the setbacks. But that...you're talking about an adjacent, like a wild land fire coming into a property. You're assuming that, that in that 30-foot setback, that the property's maintained. I don't know if you've seen Mr. White's property or not. But his setback, he's been here so much that he can't mow his lawn. So it's pretty tall now. No I'm just...

COUNCILMEMBER WHITE: I'm sorry but I need to correct the record.

CHAIR BAISA: Alright guys.

COUNCILMEMBER WHITE: I never fail to mow my lawn. That's my piece.

COUNCILMEMBER COUCH: But as far as the setback is concerned, you're assuming that it's maintained, because there are...I mean we get complaints all the time about properties that aren't maintained. So there's kind of a double-edged sword there. Is that...

MR. HAAKE: Yes, that is assuming that the property is maintained. And I guess it would address, you know, if that person that did not maintain his yard came in to us and

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had a concern about the other side being overgrown, then we would say that, look it's all on your side so you address it. Right, so it's 30 feet to structures and so the normal setbacks are less than that. So sometimes an adjacent property might be overgrown and so we'd have to require that person to cut their lot or create a fire break. In this sense if we increase the setbacks on the property lines, all the...what is it? All the maintenance or all that concern, would be addressed by the property owner. Yeah, the owner of the home.

COUNCILMEMBER COUCH: Okay.

MR. HAAKE: You know, he would have to maintain his side.

COUNCILMEMBER COUCH: So the setbacks, I know in residential, the setbacks are like 15 and 6 feet or 10 feet, depending on the...but most of these, aren't most of these lots, and maybe Mr. White knows, most of these are agriculture are they not? And I believe the setbacks are already close to 30 feet, if not 30 feet. But I want to make sure. Mister...first of all my, I guess, Madam Chair, first question is, these 58 lots that I guess Mr. White has had some experience with, are they generally all agriculture or what?

CHAIR BAISA: We'll ask Chair White if he has any information.

COUNCILMEMBER WHITE: That's a great question, my assumption was that, because this is mostly in the Upcountry water meter list area that they would be ag lots. But there may be some in there that are smaller, so...

CHAIR BAISA: I can tell you personally, mine is not.

COUNCILMEMBER COUCH: Is not ag?

CHAIR BAISA: Mine is not ag.

COUNCILMEMBER WHITE: Yeah. So there would be a challenge, but basically in the residential areas, there's generally adequate water supply.

CHAIR BAISA: Yes. We have adequate water supply.

COUNCILMEMBER WHITE: Yeah. So it's just a matter of waiting for the...waiting your time.

CHAIR BAISA: That's correct.

COUNCILMEMBER WHITE: Unfortunately. We could, we can certainly...

COUNCILMEMBER COUCH: I'm just wondering, you know, if this is necessary to put it in the bill, when most of this, I think the setbacks are already set to 30 feet but I may be mistaken.

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CHAIR BAISA: Fire Chief was very clear that he wanted it in the bill.

COUNCILMEMBER COUCH: Okay.

CHAIR BAISA: Okay. What I'm trying to do, guys, is what we did before and that was to fashion a compromise so we get the support of the Fire Department. Because if we don't have the support of the Fire Department, we can do whatever we want, but is it a good way of doing it? So trying very hard to discuss it and find where we can meet and agree. Okay.

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And so this 30 feet thing, so I guess Chief Murray's saying at least 30. So was there discussion in increasing that number to beyond 30? Because as Mr. Couch is stating, it seems to be already at this number. Well, I guess Ms. Oana has something to add --

CHAIR BAISA: Yes.

COUNCILMEMBER COCHRAN: --right now, Chair.

CHAIR BAISA: Well, Ms. Oana go ahead?

MS. OANA: I just wanted to let the Committee know, with regard to the Agriculture District, the minimum yard setbacks, front yards is 25 feet, side and rear yards are 15 feet. And for Residential, front yard of 15 feet, side yard at 6 feet, and rear yard of 6 feet for all residential districts. Side and rear yards for a two-story building shall be 10 feet in all Residential Districts. Just for your information and discussion.

COUNCILMEMBER COCHRAN: Okay, so--

CHAIR BAISA: Okay.

COUNCILMEMBER COCHRAN: --this number is an increase--

CHAIR BAISA: That's correct.

COUNCILMEMBER COCHRAN: --of the existing Code and so I was...and I know this is between property lines. I for some reason was thinking between these homes on the one lot. The setbacks from one to another. So one doesn't jump to the other in a sense, you know, so I was thinking...oh, is that on the next bullet--

COUNCILMEMBER WHITE: Yeah. That's on the next page.

COUNCILMEMBER COCHRAN: --point?

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CHAIR BAISA: Yeah.

COUNCILMEMBER COCHRAN: Oh, okay. Increase of...okay. At 50 feet. So, okay.

CHAIR BAISA: Okay.

COUNCILMEMBER COCHRAN: Alright. Thank you.

CHAIR BAISA: Alright, Ms. Cochran.

COUNCILMEMBER COUCH: And...

CHAIR BAISA: Alright.

COUNCILMEMBER COUCH: I'm sorry.

CHAIR BAISA: Yes, Mr. Couch?

COUNCILMEMBER COUCH: Just to clarify, this is only if there isn't adequate fire protection or access, or sprinklers, or even if there is adequate access?

MR. HAAKE: So if they utilize this ordinance to subdivide, that's gonna be the assumption that there's no fire protection.

COUNCILMEMBER COUCH: Okay.

MR. HAAKE: And so, these setbacks would be in place.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR BAISA: Okay. No it's important that we talk about this because, you know, these things appear very simple. And when you start digging a little more and trying to, oh I know that property is, you know, it really makes a difference when you implement. Okay. Captain, let's try.

COUNCILMEMBER WHITE: Okay. Just so that I have it --

CHAIR BAISA: Yes, Mr. White?

COUNCILMEMBER WHITE: --clear. I'm understanding that if the access and water flow or fire flow are inadequate, then we implement both the sprinkler and the setbacks. Because my concern is we may have to...if we're not doing it that way, then we may have to write it differently for residential areas. Because the setbacks wouldn't work. And I'm assuming the setbacks that were discussed were envisioning the ag parcels, not the residential.

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CHAIR BAISA: Yeah.

MR. HAAKE: Well, I would think that if they had the water supply, then they wouldn't be applying for this...utilizing this ordinance. Because that's...the ordinance is to exempt from water supply for fire protection.

COUNCILMEMBER WHITE: Yeah. But if they're on the water meter waiting list.

MR. HAAKE: They're gonna have a water meter, but they're not gonna have a fire hydrant or a standpipe.

MR. TAYLOR: Madam Chair, if I may clarify? This isn't...

CHAIR BAISA: Yes, go ahead, Mr. Taylor.

MR. TAYLOR: This bill or this ordinance wouldn't be something that someone applies for. When their name comes up on the list, we contact them. If they have inadequate water infrastructure, we would tell them you're available for this alternative under this bill. So it isn't an application process, it's something our staff understands, and we know how to offer it to the right customers.

COUNCILMEMBER WHITE: Okay. Thank you.

CHAIR BAISA: Okay. Mr. Couch?

COUNCILMEMBER WHITE: Thank you.

COUNCILMEMBER COUCH: Thank you, Madam Chair. The only...the concern I would have with, at least in the Rural District and probably Residential, is that the minimum lot within Rural at least, I think is 70, around 70 feet. So if you have a 70-foot lot wide, and you have 30-foot setbacks on both sides, your house can only be 10 feet wide. I have a little bit of concern about that. I don't know how often that that would come up. You know, 70 feet's pretty narrow for a...especially for a rural lot. But I can see how, you know, if somebody's doing their, it's 150- or 200-foot lot that they want to subdivide 3 ways. They can get it close to 70 pretty quick. Do you have any thoughts for provisions for something like that at the minimum width? Or are they just out of luck, they get a 10-foot-wide house? A very long house. I'm just...that's my concern.

CHAIR BAISA: Well, again, this is why, you know, creating laws is not easy. Because there's always these specific situations that come up that don't fit. They seem okay, and then there's this person that has a special concern. And, you know, Members, if you would like I see Mr. DePonte chomping at the bit. And he's the surveyor, who does a lot of this. And really has good experience about what we're actually talking about, the variety of things. I'd like to ask him if he could help us answer that question with no objection?

COUNCILMEMBERS: No objection.

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CHAIR BAISA: Thank you. Mr. DePonte? You know, we got the resources, we might as well listen. Now or later.

MR. DEPONTE: The minimum lot widths is gonna be the problem and that's why I passed the paper to Councilmember Don Couch. What happened is, if we have a minimum lot width of 70 feet, which is the rule on Rural zone. And yeah, your lot can be 100 feet, 70 feet, whatever. What happened is, if you put 30 feet, 30 feet, depends on which way the lot is shaped, you're leaving it for 10 feet of buildable area.

CHAIR BAISA: Building.

MR. DEPONTE: A narrow house is good for a small guy like me but I mean it's not gonna work. But in any case, the idea on fire protection, yes, we have the 30-foot setback right now for our subdivisions, what about the ones that is nonconforming now? So now we have to go and...when we're as surveyors, we go out there and we locate the houses, we locate property lines, and anything that's nonconforming. So now when they go to build, the next time they come in for a permit, they gotta correct that problem. If the house burns down sometimes they allow it to build on the same pad that was there. But if not now that person, if his lot is only say, 30-40 feet, that place where his house was, there is no chance of him reputing [sic] that house back up. So we're lost on that. So the rules need to look at that also that exempts some of this narrow lots. 'Cause we do have a lot of them. I put a 70 foot there, but there are lots out there that is even...you have to go less. It's kinda of a triangle like that. So where you put...place the house, the buildable area, it's just not reasonable. It's gonna be tough. And there are some that we had that...I had my neighbor that was around the corner. That they put up the restriction of 30 to 35 feet now, from the front edge. And her house fell right in...I mean her house is inside of that setback. So she can't do nothing more forward with that house. Even with a cottage. They couldn't add on a deck or anything else onto the house. So it makes it real difficult. If we play with setbacks, I think we're going into more muddy water on this thing. I think the main thing is, like he was saying, requiring more on sprinkler systems. Making sure we get sprinkler systems in the houses. 'Cause even, you know, it's been proven, it's a life saver. With the setbacks, it's gonna...you're working with the new subdivisions. And let's work with that little bit more. Maybe work with the professionals in the community. Not, you know, myself and also the engineers that design this would be a better idea. Also bringing in Planning Department to see what's going on. And we can all work together on that. I'm more than happy to come down and talk to you, 'cause I'm there in the field. I see these things, and I see the nonconforming. And that's the one that hurts the land owner when they go to sell the property, it's a problem. It's a major problem with the title company. Title insurance, because you're nonconforming now.

CHAIR BAISA: Yeah.

MR. DEPONTE: Okay.

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CHAIR BAISA: Thank you very much. Hang on a second.

MR. DEPONTE: You're welcome.

CHAIR BAISA: If the Members have any direct questions for you. If not, thank you very much. I appreciate it.

MR. DEPONTE: You're welcome.

CHAIR BAISA: It's always good to have folks that have hands-on knowledge. Members, I think it's time for our morning break. So before we pursue anything else here, the Chair would like us to take a short break. I'm not going to say exactly how many minutes because if I say 10, it's gonna be 15. So could we please try to take a short break and be back hopefully by 20 minutes to 11:00 because one of our Members is going to have to leave at 11:30. I'd like to cover as much as I can so we'll have a basis to pass on to the next Council. Okay, this meeting is now in recess. . . .(gavel). . .

**RECESS: 10:28 a.m.**

**RECONVENE: 10:42 a.m.**

CHAIR BAISA: . . .(gavel). . . Will the meeting please come back to order. If I put on my mic, it helps. Okay. Members, let's continue with the discussion that we're having of the recommendations or the reactions and suggestions we got from the police, I mean the Fire Chief. Captain Haake, want to proceed here?

MR. HAAKE: Thank you. Thank you, Chair. And so I know the last two bullet points, I kinda blended them together about the setbacks. Fifty feet between buildings on the same property and 30 feet from the structure to property line.

CHAIR BAISA: Captain...

MR. HAAKE: The last item that we have is the water tanker fund. And the suggestion is here is that we create a fund that people who fall under this bill or ordinance, contributes to and we use those funds to purchase a tanker for the area. And that tanker would be a source of water supply to address any fires. And also the fund would provide for the drivers associated with the tanker. And, you know, with the Department having the tanker we would ensure that the thing is in working condition and able to provide that water supply. As opposed to some tank with a drafting hydrant or other options.

CHAIR BAISA: Thank you very much. Members, reactions to the proposal? Chair White?

COUNCILMEMBER WHITE: Thank you, Chair. I don't have a problem with the request for a tanker to be positioned somewhere Upcountry. And I'm assuming that the request would be to place it in Kula as opposed to Makawao or Paia, because I think the...there's more adequate supply and source in the lower areas. But I think this

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should be done through the regular Budget process. My only concern with placing this on the backs of the people that are on the water meter waiting list is that I wouldn't want the folks that we have put through so much pain and agony to then have to handle an additional cost on top of that. But I understand the Department's, you know, need and desire for the...for that type of equipment Upcountry. And I think the request is an appropriate one. But I would prefer that we handle it through the Budget rather than trying to start building up a fund that's gonna take forever to generate the level of funding that is required for a tanker. I think it's more appropriately handled through the Budget.

CHAIR BAISA: Thank you very much. I share your feelings. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I was pretty much just gonna say the same thing Mr. White said. And I agree with that. If you're talking about maybe a high-end subdivision someplace, maybe they could handle that. But the areas we're talking about, I think it would be really, really difficult. I don't think that it'd be practical. Thank you.

CHAIR BAISA: Thank you, Mr. Carroll. Any other remarks? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And yeah, I agree this is, ought to go through the Budget and Finance Committee. I'm looking at this and so it's stating to garner the money from every applicant that qualifies for this particular bill to pay towards this tanker fund. And that would be about 102 people. So applicants, that seems like, as Mr. White mentioned, would take a long time to add up this kind of dollars. And then it...well, it says the amount would be determined by this Council which I guess we would factor in what type of...what's the cost of that tanker, and then it's looking for funding tanker driver positions, and it says for three or six positions. So we'd have to factor all that in to get the grand total. And it's also stating a portion of money that would have been used to upgrade water supply infrastructure to be put into this fund. But wouldn't we just utilize that money to do the infrastructure improvements and not put in this particular fund? I don't...if we found money for that, wouldn't we be better off in putting it towards the improvements versus a truck specialized just for this area? I don't know why that's even stated that way and curious who had any comments about that? Maybe Department? I don't...the difference between buying a truck and actually improving the infrastructure?

MR. HAAKE: From the Fire Department's point of view...

COUNCILMEMBER COCHRAN: Or water.

CHAIR BAISA: Yes. Yes.

COUNCILMEMBER COCHRAN: I'm looking at water too. Yeah.

MR. HAAKE: From the Fire Department's point of view--

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CHAIR BAISA: Yes.

MR. HAAKE: --it was, you know, maybe the whatever is put in will not buy all of the fire truck or fund all of the position. But, you know, as opposed to doing infrastructure improvements which would cost, you know, a tremendous amount of money, which is what a lot of people have said, you know, some portion of that money that would be used for that stuff, could be placed in this fund. It's...and then, and that's how they contribute to the fire protection. I agree with you guys that they shouldn't bear the whole burden, but there would...they could carry some of it depending on what you guys decided. If you guys decide not, then not. But, you know, as opposed to spending hundreds of thousands dollars to put in fire lines and hydrants, you know, put in 10,000 to this fund. Or whatever you guys determine, you know, and it's not when we get enough money that we buy the truck, but when we buy the truck, whatever money has there can offset some of the costs. And knowing that future applicants come in, they would pay a share, and that would go in. So that's your guys' specialty and it's just a suggestion from us.

CHAIR BAISA: Thank you very much, Captain. Well done. When we had this meeting, of course, you know, they really feel obviously that we need more water available in these, you know, higher elevations where we don't have as much service as we'd like to have. And I certainly see the Chief being very smart about saying, hey come on help us get a pumper. And I agree with Chair White, probably this is best done in the Budget process. But I hope that it doesn't fall through the cracks and that the Chief will make this request if we pass this legislation. Chief will have to make the request so that we take care of it. I think it's important. What we're doing today again, Committee Members, is we're throwing out suggestions, ideas for this bill. We've gained an awful lot of good information this morning. And I think that there's a lot that needs to be looked at and researched before the bill is put up for serious deliberation and passage. But we have now really good ideas. And Chair is really grateful to the testifiers as well as the departments, legal, Fire, everybody who has helped. So, Members, I don't know how much more we want to discuss the suggestions. But I am comfortable if you folks are in entertaining a motion to refer this item to the Council Chair for the term beginning January 2, 2017, pursuant to Rule 23 of the Rules of the Council.

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR BAISA: We have a motion by Mr. Couch, and a second by Mr. White. Is there any further discussion?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Yes, Ms. Cochran?

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COUNCILMEMBER COCHRAN: I had recalled Mr. Jacintho of the Maui Cattlemen's sort of relaying a question to this body. And I think, in particular, the Department in regards to fixture count, if this bill is going to affect that. So I'm not sure if that's pertinent to what we're...but he did bring up that point on the floor. And we mentioned that perhaps we'd talk about that a little bit.

CHAIR BAISA: I will include that in the Committee report that will be again submitted for the next Water Chair, or Water Committee, or whoever, I...we don't have any idea what the new structure will look like. But there will be somebody dealing with water. We'll make sure that that's in the report. And that it's not overlooked.

COUNCILMEMBER COCHRAN: Okay. Alright. Very good.

CHAIR BAISA: Anything else? Seeing none, all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR BAISA: Opposed, no. Motion carries. We have six "ayes" and we have Mr. Victorino who is excused today. And so that's six "ayes," no "noes," motion passes.

**VOTE:       AYES:     Chair Baisa, and Councilmembers Carroll, Cochran,  
                              Couch, Crivello, and White.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Vice-Chair Victorino.**

**MOTION CARRIED.**

**ACTION:     Recommending REFERRAL of communication to the  
                              Council Chair for the term beginning January 2,  
                              2017.**

CHAIR BAISA: Okay, Members, second item on our agenda today...Chief, if...Captain, if you need to go. We'll...thank you very, very much both of you for being here this morning. I appreciate it.

MR. HAAKE: Thank you.

**WR-1:       WELLHEAD PROTECTION OVERLAY DISTRICT**

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**WR-21: WAIVER OF MINIMUM GROSS INCOME REQUIREMENT FOR AGRICULTURAL WATER RATES**

**WR-27: ACCESS THROUGH THE HANS MICHEL PROPERTY FOR MAINTENANCE AND OPERATION OF KANAHA VALLEY STREAM**

CHAIR BAISA: Okay, Members, we have another item on the agenda today and that is three items that I'm suggesting be referred to the next Council because I feel that they warrant further discussion. One is WR-1, which is Wellhead Protection Overlay District. Second is WR-21, Waiver of Minimum Gross Income Requirement for Agricultural Water Rates. And WR-27, Access through the Hans Michel Property for Maintenance and Operation of Kanaha Valley Stream. I also want to make clear that two other items will be automatically referred to, and I can't turn the page, to the next Council because they have passed first reading by the Council but were recommitted. They are the proposed backflow prevention bill and the Lanai Water Advisory Committee proposal. I will now entertain a motion to refer the items listed to the Council Chair for the term beginning January 2, 2017 pursuant to Rule 23 of the Rules of the Council.

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR BAISA: We have a motion by Mr. Couch, seconded by Chair White? Any discussion? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. So...yeah and thank you for those referrals. Chair, I did look through your master agenda and I saw three items I thought would be important to refer also. So is there a way to add additional items in this motion at this time?

CHAIR BAISA: I'm going to refer you to Staff because I don't really know the rules. Ms. Willenbrink?

MS. WILLENBRINK: Brief recess, Chair?

CHAIR BAISA: Brief recess. Okay, not a problem. Everybody stay in your seats. The meeting is now in recess. . . .(gavel). . .

**RECESS: 10:54 a.m.**

**RECONVENE: 10:58 a.m.**

CHAIR BAISA: . . .(gavel). . . Will the meeting please come back to order. Members, we have a motion on the floor...

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COUNCILMEMBER COCHRAN: Oh, microphone. Mic.

CHAIR BAISA: Will the meeting please come back to order. Members, we have a motion on the floor that was seconded and we've been in discussion and we were able to work out the questions that were asked. And so are there any other questions or concerns that you'd like to bring up? Mr. Couch?

COUNCILMEMBER COUCH: I would like to know what the results were.

CHAIR BAISA: These things will be handled at an...in another manner by being probably discharged or reintroduced. So Ms. Cochran--

COUNCILMEMBER COUCH: Thank you.

CHAIR BAISA: --is okay. Okay? Anything else? If not, Members, all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR BAISA: Opposed, no. Motion carries. We have six "ayes" and one Member excused, Mr. Victorino, so no "noes," motion carries.

**VOTE:       AYES:   Chair Baisa, and Councilmembers Carroll, Cochran, Couch, Crivello, and White.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Vice-Chair Victorino.**

**MOTION CARRIED.**

**ACTION:     Recommending REFERRAL of communications to the Council Chair for the term beginning January 2, 2017.**

CHAIR BAISA: Members, that is the end of our agenda for today. We've handled our business. Chair would like to thank you. I'd like to thank you not only for today but for working with me so well in the past two years that I've been Chair of the Water Resource Committee. It's been a pleasure working with you. We...I think we've had really good meetings and a lot of cooperation. I would like to thank the Staff for their work. And I would especially like to thank Director Taylor who's been great to work with. It's been a real experience in learning about all these things. And I'd like to

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thank Ms. Oana who has been right there providing legal advice for us on a moment's notice. And I really, really appreciate that. So again all the best, and for those that are gonna be here for the next term, I hope that you will seriously try to, you know, finish what we've started. And I know you'll have many ideas and priorities of your own. But again, thank you very much. I'd like to thank the public for the opportunity to serve you in this manner. And please know that although I'm going on vacation for a while, I will be back and I will be either glued to Akaku or maybe sitting out there with you. So again, this meeting is...

COUNCILMEMBER COUCH: Madam Chair?

CHAIR BAISA: Yes?

COUNCILMEMBER COUCH: Thank you. Point of personal privilege.

CHAIR BAISA: Go ahead.

COUNCILMEMBER COUCH: I wanted to say thank you very much for, in the last two years, we got a lot accomplished --

CHAIR BAISA: Yes.

COUNCILMEMBER COUCH: --in this Water Committee...Water Resources Committee. And, you know, having worked with you for the last six years in all the different capacities, you were able to get some very, very sticky subjects moving. And so want, I appreciate you being able to do that. And I just wanted to put it on record that you got a lot accomplished in the two years that you were on this Committee, so thank you very much.

CHAIR BAISA: Thank you, Mr. Couch. You know, nobody again does any of this alone. So I always want to make sure that everybody knows, it's a team that makes things happen. Chair White?

COUNCILMEMBER WHITE: I'd just like to add to that, that you've done a great job of bringing the various departments together and meeting outside of the Chambers to try to bring resolution to some very thorny issues. And I think we all appreciate that. And I'm sure those that...in the gallery appreciate it as well as those watching from home. So thank you for all of your work.

CHAIR BAISA: Thank you, Chair. I appreciate that a lot. Mr. Carroll?

COUNCILMEMBER CARROLL: You know, this Committee has to deal with a limited resource, with limited infrastructure, and make it all work. And we're really...I'm really proud of what the Committee has done under your leadership because there will never be any easier answers to water. Mahalo.

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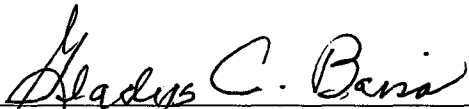
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CHAIR BAISA: Thank you, Mr. Carroll. I appreciate that a lot. Okay, Members, that's it.  
This meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:03 a.m.

APPROVED:



GLADYS C. BAISA, CHAIR  
Water Resources Committee

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Transcribed by: Tiare del Castillo

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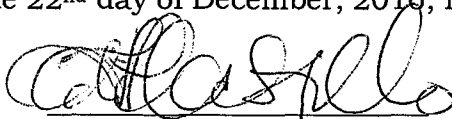
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CERTIFICATE

I, Tiare del Castillo, 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 the 22<sup>nd</sup> day of December, 2016, in Pukalani, Hawaii

A handwritten signature in cursive script, appearing to read 'Tiare del Castillo', written over a horizontal line.

Tiare del Castillo