

WATER AND INFRASTRUCTURE COMMITTEE

Council of the County of Maui

MINUTES

September 16, 2019

King Kekaulike High School Cafeteria

CONVENE: 6:03 p.m.

PRESENT: Councilmember Alice L. Lee, Chair
Councilmember Tamara Paltin, Vice-Chair (in 6:07 p.m.)
Councilmember Tasha Kama
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Shane M. Sinenci

NON-VOTING MEMBERS:
Councilmember Yuki Lei K. Sugimura

EXCUSED: Councilmember Riki Hokama

STAFF: Wesley Crile, Legislative Analyst
Alison Stewart, Legislative Analyst
Rayna Yap, Committee Secretary

ADMIN.: Rowena Dagdag-Andaya, Director, Department of Public Works
Wendy Taomoto, Engineering Program Manager, Department of
Water Supply
Jennifer Oana, Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: Sam Small (WAI-38, WAI-18)
Baldev Singh (WAI-18)
Bernice Lu (WAI-18)
Alan Nago (WAI-38)
Bob Horcajo (WAI-38, WAI-18)
Jack Patnode (WAI-18)
Christopher Fishkin (WAI-38)
Sherman Dudley DePonte (WAI-18)
Shelley Maddigan (WAI-18)
Mike Spalding (WAI-18)
Leilani Carvalho (WAI-38)
Gladys Baisa (WAI-38)
Dale Agena (WAI-18)
(10) additional attendees

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

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CHAIR LEE: . . .*(gavel)*. . . Will the Water and Infrastructure Committee please come to order. Good evening, everyone. This is Monday, September 16, 2019. It is around 6:03, and we all have different times, roughly 6:03. Would appreciate it if you could silence your phones at this time and other noise-making devices. And to introduce you to all of our Committee Members, I have asked for the help of your Member, Councilmember Yuki Sugimura, who by the way is actually not a Member of our Committee but a strong supporter.

COUNCILMEMBER SUGIMURA: Yes. Water is our issue. Isn't it, Upcountry? Good evening, everybody. Thanks for making the time to share with us your thoughts on this important issues. I just want to introduce the Members of our Council. So, thank you very much, Alice Lee, for hearing the community and bringing this Committee meeting up to Upcountry. So, I really want to thank you, 'cause that was what the community was saying. And you even pulled back the item, sent it back to your Committee--and appreciate it--so we can have a full discussion on it. Sitting next to her is Keani Rawlins-Fernandez, right next to her; and Tasha Kama --

COUNCILMEMBER KAMA: Aloha.

COUNCILMEMBER SUGIMURA: --from...Tasha Kama is from Kahului, Keani is from Molokai. And next to me is Mike Molina, born and raised Upcountry, right, the Molina blood; Shane Sinenci from Hana. And I --

COUNCILMEMBER SINENCI: Aloha.

COUNCILMEMBER SUGIMURA: --appreciate all of them for making the time to be here. So, thank you.

CHAIR LEE: Thank you, Yuki. So, not here is our Council Chair Kelly King, and she's not really a Member of this Committee but is always welcome to attend, and so is Yuki Lei Sugimura. Our Staff tonight is Wes Crile from...who is our Legislative Analyst. You want to raise your hand so...oh, okay, everybody can see Wes. Alison Stewart, our other Legislative Analyst. Rayna Yap, our Committee Secretary. From the Department of Water Supply, Wendy Taomoto, Engineering Program Manager. Oh, okay, she's the one over there with the glasses. Raise your hand. Okay. Very good. Then we have Rowena Dagdag-Andaya, Director of Public Works. She will be coming after the Mayor's Budget meeting in Pukalani tonight. And then from the Department of Corporation Counsel, Deputy Corporation Counsel, Jennifer Oana.

MS. OANA: Good evening, Chair.

CHAIR LEE: Thank you. And if there are no objections at this time...

COUNCILMEMBER RAWLINS-FERNANDEZ: . . .*(inaudible)*. . .

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CHAIR LEE: Oh, I'm sorry, Tamara is excused, and Riki Hokama is excused.

COUNCILMEMBER RAWLINS-FERNANDEZ: Both are voting Members?

CHAIR LEE: Yeah, both are voting Members. Okay. So, now, if there are no objections, I'd like to provide an overview of the two items we will be covering on tonight's agenda before we proceed with public testimony. Any objections?

COUNCILMEMBERS: No objections.

CHAIR LEE: Thank you. Okay. I see a lot of familiar faces in the audience. So, many of you already know the changes that we are proposing.

ITEM WAI-38: EXISTING STREETS (CC 19-228)

CHAIR LEE: And now, I would like to tell you a little bit about Existing Streets.

COUNCILMEMBER SUGIMURA: Oh, Existing Streets.

CHAIR LEE: Yeah, Existing Streets. Yeah, we're going to switch the...because this one should be easier, but then I'm often wrong on these things. Okay. Now, this is an item that was going to the Council for first reading but we decided to recommit it to Committee because there were some questions. Now, just a little history. A few years ago, Gladys Baisa, then Councilmember, introduced this bill--in fact, Wendy, why don't you come up, come forward and you can probably add to this narrative--and she introduced this bill to actually give people on the Upcountry...oh, we have Tamara Paltin. How about a big hand for Tamara. Okay. Tamara, we're just starting. So, we really didn't vote yet.

VICE-CHAIR PALTIN: . . .*(inaudible)*. . .

CHAIR LEE: Yeah. And the idea of this proposal from Gladys Baisa was to assist the people on the Upcountry waitlist, the meter list, because they have so many requirements at...as it is, to give them an exemption from road improvements with...whenever they are ready to do their subdivision. So, this was around 2015. What happened when this bill was ready to be passed, instead of just exempting those Upcountry, it turns out that everybody in Maui County was exempt. And I really don't believe that was the initial intent of the bill, even though the Council did pass it and it got through reviews by our Office of Council Services staff, reviews by the Office *[sic]* of Corporation Counsel. So, anyway, we believe that we need to make the change and close that loophole because, really, the County cannot afford to pay for everybody's improvements, you know, sidewalks, gutters, and so forth. So, we need to be practical. And even though we know we're going to be criticized for making this change, we believe it's necessary. So, what we are doing to ensure that we're not creating an additional hardship on people, we're giving everybody...well, I'm proposing that we give everybody 90 days to apply for a subdivision. So, 90 days from the

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effective date of this ordinance, if it passes. So, we're looking at people have until probably January, or even a little later to apply for the subdivision. Anybody who has already applied and is in the queue but has not been approved will also be exempt from this ordinance. So, this is, you know, the fairest we can be in terms of giving people a chance to move forward with their subdivisions. For those people who let's say are not ready and maybe next year or the following year want to subdivide their property, they still have the option of going to the BVA, which is the Board of Variances and Appeals, to appeal to that board on the basis of any kind of financial hardship or other kinds of issues they may have. So, it's not a totally closed case, you still have options. Now, like I said, the Director of Public Works is not here, but we do have one of the chiefs in the Water Department [sic], in Wendy Taomoto. So, Wendy, do you have anything to add to what I just said that's simple and not complicated?

MS. TAOMOTO: No.

CHAIR LEE: Nothing. Okay. All right. Anybody...any comments on this group...with this group?

COUNCILMEMBER SUGIMURA: Oh, there's Jen.

CHAIR LEE: At this...oh, Jen, yes, our Corporation Counsel [sic].

MS. OANA: Chair, I wanted to propose a revision to Section A.4. And the revision is just to clarify it and make it a little more clear so the departments can have an easier time implementing and understanding this. I've heard comments from Water Department [sic] and Public Works. And what I propose is basically to change it to, a subdivision creating only two developable lots, and then erase everything...and erase everything up until "subject to the following." So, what you would be replacing that with is "that receives water service pursuant to 14.13.065 of this Code." So, I'll just read it in its entirety: "A subdivision creating only two developable lots that receives water service pursuant to 14.13.065 of this Code, subject to the following," and then keep everything else.

CHAIR LEE: Okay. Is...do you consider this clarification a substantive change?

MS. OANA: No, because everything we're deleting is pretty much in the 14.13.065. It's an applicant on the priority list of the Upcountry water system. It's defined on 14.13. And the next part is just instead of qualify, 'cause that word "qualify" may cause problems for both departments, what does "qualify" mean? And so, to make it simpler, just, a subdivision creating only two developable lots that receives water service under 14.13.065.

CHAIR LEE: Okay. Any questions? Because this is clarifying language that does not change the substance of the ordinance. Okay. And before we start with testimony, I'd like to say mahalo to King Kekaulike High School for letting us come here tonight. We actually tried to do this in Makawao, first at Kalama, and then at Eddie Tam; and all

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those places were taken, so we ended up here. But this is a nice place, and maybe you can, Yuki, talk to our representatives, we need air conditioning.

COUNCILMEMBER SUGIMURA: Oh, yeah.

CHAIR LEE: Yeah. Okay. Rayna, do we have our first testifier?

MR. CRILE: Yes...

CHAIR LEE: Oh, Wes?

MR. CRILE: Testing. Is this on? Can you hear me? Check.

MR. CHING-JOHNSON: Yeah.

MR. CRILE: Testing? Okay. First testifier is Sam Small, testifying on behalf of Maui Causes, to be followed by Baldev Singh.

CHAIR LEE: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR LEE: As you know, Council Rules allow for three minutes of testimony. If you need to conclude your sentence, I'll give you another minute to do so. Okay. So, please state your name --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, really quickly.

CHAIR LEE: --and the organization that you may represent...in a second. Ms. Keani Rawlins?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted clarification on this process. Since you clarified or explained WAI...or WAI-38, Existing Streets, does testimony...is testimony limited to that one item first, or are you taking testimony on both items right now?

CHAIR LEE: Oh, thank you. Thank you, Ms. Rawlins-Fernandez. We're taking testimony on Existing Streets.

UNIDENTIFIED SPEAKER: Okay.

CHAIR LEE: Yeah. And then when that's done, then I will give you an overview on the waterline extension bill, and then you can come up and testify on that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

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CHAIR LEE: I'm hoping to pass this Existing Streets bill tonight, tonight. Okay. And the other one, we're not planning to really pass tonight, 'cause we have some work to do on it. All right, we're clear? Yes, Ms. Oana?

MS. OANA: Just one question, Chair, you mentioned in your introduction that you're going to change the grandfathering part. Did you want to specifically say what that was?

CHAIR LEE: Pardon me?

MS. OANA: You mentioned in your introduction that you're going to change the grandfathering part, Section 4.

CHAIR LEE: Yes, if I...I thought...we can do that when...after the, you know, after the testimony. Yeah, we don't want to vote on it before the testimony, right? Okay. You said that earlier. You gave us the verbiage that you wanted us to change it to?

MS. OANA: No, no, I don't think I did. The Section 4 language?

CHAIR LEE: Okay. You know what, let's have the testimony, yeah. Okay. 'Cause we're not going to vote on it before testimony. Okay. Go ahead, Sam.

. . .BEGIN PUBLIC TESTIMONY for WAI-38. . .

MR. SMALL: Well, the testimony...actually, it's important because it is part of the testimony.

CHAIR LEE: You want to hear that?

MR. SMALL: Yeah, I think it is --

CHAIR LEE: Okay.

MR. SMALL: --important.

CHAIR LEE: Ms. Oana?

MS. OANA: I'm sorry, Chair, I don't have that language. That's not my language.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR LEE: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I think she did explain it. That was the 90 days?

UNIDENTIFIED SPEAKER: Yeah.

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COUNCILMEMBER RAWLINS-FERNANDEZ: So, instead of it valid on the effective date of this ordinance, it would be 90 days after the ordinance is passed at...so, the Chair did go over that section that she proposed to amend.

CHAIR LEE: Was that your question?

MS. OANA: I heard you say it, but I don't think you went over the language. So, I just wanted to see if you wanted to do that before testimony.

CHAIR LEE: No, I don't think so. I mean people heard 90 days, there's nothing unusual about that, yeah? Okay. Let's go.

MR. SMALL: Okay. My name is Sam Small. I have been researching for many years now the contributing factors to why the water is brown all the time, and that has led me to a...become something of an expert in the existing streets clauses of Title 18. I was invited several years ago to give a presentation to the Infrastructure Committee and did so, a 45-minute presentation on the deferral agreements. And, Ms. Lee, I've sat in your office; Mr. Molina, I've sat in yours; I've spoken to several of the Councilmembers about the three-lot-or-less deferral agreements, which were indeed done in secret, because a deferred matter for which there is no mechanism to collect secretly becomes an exemption. And so, for decades, developers here in Maui County depended on being able to receive a secret exemption. That was stopped eventually I think in 2007, and they waited until 2015. Several people have already testified that what was done in 2015, that you're here to correct, was specifically intended to replace the three-lot-or-less deferral agreements. So, that entitlement is something that they feel that they own, develop...certain people in the real estate industry believe that they have a right to exploit the citizens of Maui County. That was done at Olowalu. The letter that you received, Ms. Lee, from a gentleman, he...principal operative in the Olowalu development, which received a sign-off by David Goode on an unfulfilled SMA permit. Ten years later, citizen complaint brought them back to do the work that they were supposed to do in like 2001 and never did. David Goode signed off on that subdivision inappropriately. So, the letter that you received is protecting David Goode. It's throwing Gladys Baisa under the bus. It's holding her responsible for the faulty language that you're here to correct today. Gladys Baisa never intended this to be island-wide, Countywide. That was never part of what she chaired the committee to create. Somewhere along the line, somebody, I believe it was David Goode, convinced Jennifer Oana to write language that was inconsistent with the Upcountry water bill. Ed Kushi knew that because in Council testimony, he's the only person that mentioned, ever so briefly, that this exemption will be given to two-lot subdivisions no matter where they are. That's all he said. And when the Councilmembers at the end of that session congratulated themselves for doing something wonderful for the families on the Upcountry water meter wait list, Don Couch said, could...wouldn't it be great if we could do this for other rural areas island-wide? None of the Councilmembers understood that it had been done island-wide. I don't know where the language came from, but I believe that, you know, an attorney working for the County has a responsibility to retract and reconcile. And that should have been done in 2016, when this matter was brought to the attention of the Council and Corporation

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Counsel. It wasn't done. We're here today to try and mitigate the harm that's being done to our taxpayers. There's actually three discussions that need to be made...well, now there's two, because one of them was the grandfathering, and tying it to planned acceptance is a takeaway, and the County would only be sued if we tried to do that. So, you're fixing that with your proposed language today. The...this action should simply remove the exemption from Title 18. If the Council wants to create a benefit for developers, that needs to be done in the light of public discussion, not secretly behind everybody's back. We have mechanisms on the way, in fact. I know so much about this and was able to speak as authoritatively on this because of what I learned in my association with Christopher Salem. Christopher Salem is now working under the Mayor to create--and meeting with Gladys Baisa to do so--to create fairness legislation that does away with all of these issues. No more deferrals, no more exemptions. Everyone pays an appropriate fee in lieu. And if you do that, all of these problems go away.

CHAIR LEE: Thank you.

MR. SMALL: So, remove the language, and then have the broader discussion. Let it be created under a fee in lieu.

CHAIR LEE: Thank you very much.

MR. SMALL: Thank you.

CHAIR LEE: Are there any questions? Sam, we have a question.

MR. SMALL: Please.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry. Mahalo, Chair. Aloha, Mr. Small. Mahalo for your testimony. Perhaps I missed it, but would you please tell us again how you know Ms. Baisa at the time, believed that this was intended only for Upcountry?

MR. SMALL: If you read her Council's...if you read the Council testimony, the minutes of the meetings, nowhere does she ever state that this is intended to be island-wide. The Committee universally...Ms. Oana said in the Committee that this could not be used for commercial developments. Ed Kushi said in Committee...was asked, could we do this island-wide? And the answer was yeah, the Council can do whatever the Council wants to do, but they can't do it in the body of an Upcountry water bill because it would be beyond...be beyond the scope of what was sunshine'd. The Upcountry water bill was designed and spoken of from the beginning to only be for families on the Upcountry water meter wait list. So, any benefit coming out of that bill could only be attributed to those families. But somehow, when it got to Council, the language that I believe, you know, I mean, you're going to have to step up to the plate, you know, that Corp. Counsel was coerced to put into Title 18 was inconsistent with Gladys Baisa's intention. And I know that today because she just told me.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. And what meeting was that that you said that you looked at the meeting minutes for that --

MR. SMALL: I looked at all --

COUNCILMEMBER RAWLINS-FERNANDEZ: --decision?

MR. SMALL: --of them, all of the Committee meetings and the two Council sessions, the first reading and the final. The...none of the...and I've spoken to all of the Councilmembers individually who were there in 2015, and not one of them has said that they understood that this would be applied Countywide. Every one to a person has said that they understood this only to be applied to the families on the Upcountry water meter waitlist. And no one even knows how many families we're talking about. In the Committee hearings, the question was asked, how many families are we talking about? Because you understand, it's a small group of subsection of families on the Upcountry water meter waitlist. It's only those who have that incremental difference between the fire suppression and their domestic capacity at the curb. So, it's a very small group of people. Today, still, today...and I believe this is why you really cannot move...approve this measure, because you can't tell me how many families we're talking about.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Small. Mahalo, Chair.

CHAIR LEE: Ms. Paltin?

VICE-CHAIR PALTIN: Aloha, Mr. Small.

MR. SMALL: Hi.

VICE-CHAIR PALTIN: Thank you, Chair. Thank you for being here.

MR. SMALL: Sure.

VICE-CHAIR PALTIN: My question was--it's kind of a lot to take in--so, basically --

MR. SMALL: I know.

VICE-CHAIR PALTIN: --what you're saying is...

CHAIR LEE: . . .*(inaudible)*. . . Okay.

VICE-CHAIR PALTIN: What you're saying is that what you want to happen here is for it to just apply to that subsection of people that it was intended for, or did you want it to roll back to original?

MR. SMALL: I think it should be...the language should be stricken universally from Title 18.

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VICE-CHAIR PALTIN: And --

MR. SMALL: Remove --

VICE-CHAIR PALTIN: --start scratch?

MR. SMALL: --the bogus language that was inappropriately applied, and if the Council wants to have a new discussion on giveaways to developers, be they commercial or be they, you know, agricultural, you know, the Council can do whatever the Council wants to do. My hope is that the Council will understand how this will finally, you know, step into the modern world of modern municipalities and accept a structure of fees in lieu so that a third-party develop...a third-party consultant, rather, makes the determination of what, you know, should be paid by what assessment district, and those terms are laid out clearly so that it's not up to a director's discretion, so that developers know what their responsibilities are.

VICE-CHAIR PALTIN: So, basically, you're saying repeal the language, whatever the whole bill, and then go back to original, and then work on it from there moving --

MR. SMALL: They --

VICE-CHAIR PALTIN: --forward.

MR. SMALL: --really need to be two separate discussions. I believe the intent of your bill was spot on, remove this language from Title 18. If the Council then wants to take up the issue of an exemption, they can do so in the light of public, you know, scrutiny, because this was done in secret --

VICE-CHAIR PALTIN: Like --

MR. SMALL: --and that's --

VICE-CHAIR PALTIN: --maybe not --

MR. SMALL: --not right.

VICE-CHAIR PALTIN: --secret, but maybe not full disclosure on the agenda or something.

MR. SMALL: You know, when the Councilmembers to a person say that they were unaware that it was going to be applied in...across the entire County, I'm sorry, that's secret, you know. It to me, it's wholly inappropriate, and it's indicative of how the County has been run historically, and that's what needs to change. You folks have the opportunity to be the change agent, to welcome in modern accountability and transparency to this County. Accountability in somebody, you know, as Corp. Counsel needs to be held accountable.

CHAIR LEE: Thank you very much.

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MR. SMALL: Thank you.

CHAIR LEE: Any other questions? Mr. Sinenci?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MR. SMALL: . . .*(inaudible)*. . . you're taped, yeah, you're taped a little short.

UNIDENTIFIED SPEAKER: It's not long enough . . .*(inaudible)*. . .

MR. SMALL: Stand up, Shane.

CHAIR LEE: How about this one? Same thing?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MR. SMALL: They got to tear this up to reach you.

CHAIR LEE: Can you walk closer to the mic?

COUNCILMEMBER SINENCI: Yeah. Sam, did you mention about projects already in the queue? Did I hear you right?

MR. SMALL: There are projects in the queue. There are I think 31 two-lot subdivisions, some of them commercial, not all of them commercial. The letter that you received is inaccurate. Nobody's saying that they're all commercial, some of them are, big ones. Twelve-hundred-acre across the street from King Cathedral Church at Puunene and Dairy Road owned by A&B, 1,200-acre parcel classified as a two-lot subdivision for the exclusive intent of receiving the exemption so that when we...when they do their building, we will pay for their sidewalks and for their curbs. They won't pay that themselves because they took advantage of what David Goode manufactured in this by hijacking the Upcountry water bill in 2015.

COUNCILMEMBER SINENCI: So, if we did make these changes tonight, would you support keeping those in the queue, the...

MR. SMALL: Well, you have to, you have to. That's why the original language that Ms. Lee had in the bill that went to the Council was inappropriate because it talked about a threshold of planned acceptance, and you can't do that. Developers have stepped forward, and if they've received a conditional approval on their subdivision, you're stuck, you got to give it to them. And, you know, you're saying now that even if they enter...they rushing. These, you know, developers are absolutely rushing now, I can imagine, to apply for a two-lot exemption because it's going to go away. It never should have been there in the first place. Nobody ever intended it. And it's helped certain people out, but these are people who traditionally do bad things here in Maui

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County, exploitative things, developments, you know, subdivisions and SMAs that are unfulfilled to this day.

CHAIR LEE: Thank you, Mr. Small. Now, that is the reason why we would like to pass this out tonight.

MR. SMALL: It needs to go, because you're, in some ways, the Council is now encumbering financial responsibility of the taxpayers. And, you know, depending on how you read that accountability, the Council becomes vulnerable to that...to those expenditures. I'd be happy, by the way, to give the presentation that I gave to Infrastructure several years ago. It's a 45-minute presentation on the 3-lot deferral agreements, which is currently sitting in the Auditor's hands to take a look at to see if any of them are collectable or not. This two-lot thing complicates the three-lot, because now, some of those three-lot-deferred properties have now received a two-lot exemption. So, they're working the system as they're entitled to do because previous Councils have allowed these kinds of loopholes.

CHAIR LEE: Okay. Thank you, Mr. Small.

MR. SMALL: Thank you.

CHAIR LEE: As soon as we can, after we receive the audit results on deferral agreements, we'll try to schedule that too, okay?

MR. SMALL: Thank you.

CHAIR LEE: All right, thank you. Any further questions? If not, next person?

MR. CRILE: Our next testifier is Baldev Singh, to be followed by Bernice Lu.

MR. SINGH (*from the audience*): My testimony is on the water issue.

CHAIR LEE: Oh, okay. Next? Bernice Lu?

MR. CRILE: So, Bernice Lu, followed by...

CHAIR LEE: She's on the same thing, the waterline.

MR. CRILE: Alan Nago?

CHAIR LEE: Waterline? Alan, you're going to be --

MR. CRILE: ...(*inaudible*)...

CHAIR LEE: --talking about the waterline or existing streets?

MR. NAGO: Okay.

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CHAIR LEE: Not okay. Which one?

MR. NAGO (*from the audience*): Streets, the streets.

CHAIR LEE: The streets, okay. That's your turn now. Thank you.

MR. NAGO: Good evening, Chairwoman Alice Lee and fellow Committee Members and Staff. I'm Alan Nago and I'm a third-generation farmer in Kula, and we're in the process of...in the middle basically of doing a two-lot family subdivision in Kula. And we're doing it mainly for estate planning and to give our daughter and my son-in-law a future home possibly. We have already received the preliminary subdivision approval and have submitted plans for final approval. We have already conveyed a portion of our property frontage to the County for potential future road improvements and also have submitted construction plans for water meter relocation and adding a new hydrant for additional fire improvements. Our family has invested a great deal financially into this project. We, like so many local folks here on Maui, are just getting by and are only trying to ensure that are family can remain living here on this island. Therefore, we fully support Chair Lee's amendment to Section 18.20.040, relating to the improvements to the existing streets, which will allow our subdivision to move forward without incurring any more costs. Thank you, and thank you for your support and consideration.

CHAIR LEE: Thank you, Mr. Nago. Are there any questions? Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Nago, for being here. My question is, were you a member of the Upcountry water meter list?

MR. NAGO: No.

VICE-CHAIR PALTIN: And then, but you're still going to be okay because you're already in the queue?

MR. NAGO: We're okay as far as the...Chair --

VICE-CHAIR PALTIN: Oh --

MR. NAGO: --Lee's --

VICE-CHAIR PALTIN: --the bill?

MR. NAGO: --amendment passes.

VICE-CHAIR PALTIN: Yeah.

MR. NAGO: Yeah.

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VICE-CHAIR PALTIN: Because it's already in, and then it's...you still have a extra 90 days.

MR. NAGO: Uh-huh, uh-huh.

VICE-CHAIR PALTIN: Okay.

MR. NAGO: Yeah, yeah. We have had our preliminary approval from the County, and we have supplied our engineering work for...to get final approval. And we have already secured a private contractor to be able to work on the water meter relocation, and adding a fire hydrant for our project.

VICE-CHAIR PALTIN: And your daughter and son-in-law, they want to come live next to you?

MR. NAGO: Well, actually they live with us right now.

VICE-CHAIR PALTIN: Oh, so they want to --

MR. NAGO: Yeah.

VICE-CHAIR PALTIN: --move out to the next door?

MR. NAGO: We would, of course.

VICE-CHAIR PALTIN: Oh, you guys --

MR. NAGO: As much as --

VICE-CHAIR PALTIN: --are moving?

MR. NAGO: --we love them, yeah...

VICE-CHAIR PALTIN: You want them to move next door?

MR. NAGO: Yeah.

VICE-CHAIR PALTIN: Okay. Thanks, got it.

MR. NAGO: Yeah, my daughter works and lives here, and grew up here. My son-in-law is a quadriplegic that I part-time care for. And we need to...or they need a newer home with updated --

VICE-CHAIR PALTIN: Able...

MR. NAGO: --ADA --

VICE-CHAIR PALTIN: Yeah.

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MR. NAGO: --compliant.

VICE-CHAIR PALTIN: Visitability.

MR. NAGO: Yeah. And so, this is the only way we can afford to help them out so they can still enjoy what we consider the best place in the world to live.

VICE-CHAIR PALTIN: That's awesome. Thanks.

MR. NAGO: Yeah, yeah.

CHAIR LEE: Okay. Thank you. Are there any other questions? Ms. Sugimura, and then who else?

COUNCILMEMBER SUGIMURA: Committee Members, are you...so, I just want to make sure that you're fine with the proposals as you've heard so far?

MR. NAGO: Yeah, thank you very much.

COUNCILMEMBER SUGIMURA: Yeah, you're fine, right, with the --

MR. NAGO: Yeah.

COUNCILMEMBER SUGIMURA: --proposals?

MR. NAGO: Yeah.

COUNCILMEMBER SUGIMURA: Okay. You certainly have gone far with your subdivision.

MR. NAGO: Yeah.

COUNCILMEMBER SUGIMURA: Thank you.

MR. NAGO: Yeah.

CHAIR LEE: Anybody else? If not, thank you very much for coming.

MR. NAGO: Thank you.

CHAIR LEE: Okay.

MR. CRILE: Next testifier is Bob Horcajo, to be followed by Jack Patnode.

MR. HORCAJO: Hi, good evening, Council Chair [sic] Lee and County Councilmembers. And thank you for driving all...

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CHAIR LEE: Little bit --

MR. HORCAJO: Oh --

CHAIR LEE: --closer to the mic --

MR. HORCAJO: --sorry.

CHAIR LEE: --please. Thank you. Don't forget to state your name.

MR. HORCAJO: Okay. My name is Bob Horcajo. I live down at Wailuku. And again, Chair and Councilmembers, thank you for adding to the traffic coming Upcountry tonight very quick. I guess I want to start with Chair Lee. Your initial comments about proposed changes to the bill on WAI-38. I think, you know, from my testimony and written, I was hoping at least she would go back to having preliminary subdivision approval as a trigger, which has been historically what has been used. So, if in fact, your proposal to change it to 90 days after passage does not pass, I would hope at least that it can go back to prelim. I think Corp. Counsel can show that, except for the "Show Me the Water" Bill, everything else before that having to do with subdivisions, prelims approval has been the, you know, has been the trigger. I'm a little confused about the second comment to A.4 that Council had proposed, but I guess we can talk about that later. In listening to a previous testifier, I guess I'm a little confused. I sent all of you folks the minutes of that September 2, 2015, Water Resource Committee meeting, where Ms. Baisa is quoted as--and also David Goode confirmed--the reason for the...lots were brought into the play is that she realized, even though she was working hard on getting the exemption for the water meter users, there was still the issue of improving the requirements from Public Works. So, it wasn't David Goode. It wasn't in secret. It was actually in the minutes. All the Councilmembers voted for it, nobody voted "no." Two were excused I think at different meetings and stuff. But if you read the minutes, it's not what I've heard here. So, please read the minutes if you haven't already, and realize that there's two sides to a fence here. But it was Ms. Baisa who brought up the issue of the Public Works because, again, if the...if it got through Water, they still had to deal with Public Works. And I know this may seem blasphemy to some people in the audience and you, but I've mentioned it in my initial written testimony of the August 5th Committee meeting, I look at this as an opportunity for local families. And if you look at also the minutes from September 2nd, Ms. Baisa said, you know, nothing...no bill is perfect. This is...you got to start someplace. She looked at this as a way to provide housing. You can always tweak it. But at this point in time, it looks like the Committee is feeling like you've got to just start from scratch, throw the baby out with the bathwater. I don't think that's the right way to go. Everything you've done, the short-term water, the B&B, everything is not perfect, it's always being tweaked. And that's what your role is, to look at the big picture. I mentioned in my last e-mail to you folks that housing, you know, everybody's looking at the developer and the government as the housing provider, and granted that has happened, but it hasn't happened either sometimes because of the...of what the County puts in front of them, such as the affordable housing act requiring 50 percent, it got dropped to 25 percent and more things are happening. So,

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you know, I look at it as it's a housing opportunity. I looked at the latest data, the Maui County Data Book. There were 12,000 housing units Upcountry, just Upcountry. Eight thousand were owner occupants; 4,000 were rentals. So, that's 4,000 units that the local community built with ohanas and second dwellings, and that's not even counting the nohanas, the enclosed garages and enclosed patios that become housing for the local families. So, my thought is, if it makes any sense--I'm going to finish up real quick--amend the bill. Amend the bill to put a time...actual ownership time limit. You did it for the STRs of five years. You have to own the property for X-amount of years before you can use the bill. Amend the bill to get rid of the commercial users. As you've heard today--and you have my database--it's very few commercial users. So, testimony in the past said they were all commercial users. So, I mean I know you can read. So, read what you have in front of you, what the facts are, and make your decision accordingly. Thank you.

CHAIR LEE: Are there any questions? Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Horcajo, for coming. I read your testimonies and I looked it up. What I don't understand is like, so from coming into the office, people are saying like, we need sidewalks, and like to us --

MR. HORCAJO: Sure.

VICE-CHAIR PALTIN: --that we got to provide this.

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: And so, then if this is like a thing and we're leave it as how it is right now, I mean I don't know if we were prepared to solve all the problems of the bill of the commercial exploitation --

MR. HORCAJO: Sure.

VICE-CHAIR PALTIN: --and all that tonight.

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: But as a way to stop the bleeding, 'cause --

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: --if we got to provide these sidewalks for all these people that have the exemption including --

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: --like Snorkel Bob's and --

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MR. HORCAJO: Right.

VICE-CHAIR PALTIN: --A&B and like that --

MR. HORCAJO: Sure.

VICE-CHAIR PALTIN: --then it's going to be hard to figure out where that money is coming from. Do we take it out of the Affordable Housing Fund, do we take it out of, you know, Women Helping Women, whatever --

MR. HORCAJO: Sure.

VICE-CHAIR PALTIN: --all these good things that we give to provide sidewalks for the people that didn't pay for their fair share of sidewalks --

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: --when they did a subdivision. So, I mean I didn't think we were going to do the wordsmithing and fleshing out all the opportunities for what this bill isn't intended tonight, but I would like to stop the bleeding from a time clock, and then work on it. 'Cause I don't think we can do it in...after we listen to all the testimony and like that. I mean if you're down and we're down to fix it to what everyone wants it to be like in a public way, then let's do that and just stop the bleeding tonight.

MR. HORCAJO: Do you want me...I think there was a question there, right?

VICE-CHAIR PALTIN: Yeah --

MR. HORCAJO: Okay.

VICE-CHAIR PALTIN: --that's the question. Like is...I mean --

MR. HORCAJO: Okay.

VICE-CHAIR PALTIN: --I don't --

MR. HORCAJO: No --

VICE-CHAIR PALTIN: --understand --

MR. HORCAJO: --no --

VICE-CHAIR PALTIN: --why --

MR. HORCAJO: --no --

VICE-CHAIR PALTIN: --that's not --

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MR. HORCAJO: --no, I --

VICE-CHAIR PALTIN: --a good idea.

MR. HORCAJO: --yeah no, I think I get. So, I think from my standpoint, I guess...I mean there's no doubt that you folks get a lot of information, and you don't know as much as maybe I would or even the Public Works staff who does this all the time, right? Curbs and gutters, most of that 27 projects on that list, I think 3 already got final...well, actually 4 of 'em, they're in the Upcountry, they're in the Ag-Rural District, sidewalks are not required. Okay. The commercial ones, Snorkel Bob on Front Street, yes, that would be required. The residential, I think there's one or two in that. I think Maha Road maybe has one or two, the Takemoto family, I forgot the other one, definitely sidewalks. But A&B, no way, that's 1,200 acres, you know. So, unless you know the law, you know, it's kind of...I mean I realize it's difficult, but unless you know the law, people can say anything. But unless you know that really does not apply, I'm telling you it does not apply to the majority of the projects that are on that...in that queue list. As far as stop the bleeding, and again, I'm, you know, again, we...I'm...we're just looking at a different perspective. I'm saying, and I believe Ms. Baisa was saying in her testimony when the bill got passed, it's an avenue for housing. If you don't...I know you don't know this, but you can go to a lot right now, unfortunately not Upcountry, if the infrastructure is inadequate for roads and for water, you can still get a water meter, you can still build. How's that fair? I mean where is your black and white? It's not that easy. I mean there's a lot of gray areas.

VICE-CHAIR PALTIN: Now that you bring it to my attention, I'd like to fix that problem also.

MR. HORCAJO: Go ahead.

VICE-CHAIR PALTIN: But yeah, I mean there's also the Board of Variances as an option as --

MR. HORCAJO: Right.

VICE-CHAIR PALTIN: --well, and I mean that this isn't the only be-all-end-all solution. I mean families, Mr. Nago possibly, could have gone the Board of Variances route if this wasn't available to him. I mean I heard his story just now, and I would give him a variance, you know. And so, maybe, yeah, maybe just coming at it from different perspectives.

MR. HORCAJO: No, I agree. I mean, and the BVA is an option as Chairman Lee had mentioned before. It's just my past history has shown that, I don't want to say it in a bad term, but the locals will not...generally do not want to spend the extra money or the extra headaches. They're going to go home and tell their family, sorry, mama, the guy said no can so I no can. That's just how it works.

CHAIR LEE: I think we have another question for you. Mr. Sinenci?

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COUNCILMEMBER SINENCI: Thank you, Chair. Thank you, Mr. Horcajo. You mentioned about owning the property five years before you can apply or subdivide, is that...and to keep commercial development out. Can you --

MR. HORCAJO: Okay.

COUNCILMEMBER SINENCI: --expound?

MR. HORCAJO: I think I just mentioned maybe two amendments. One was that. Such as the STR, I think you folks require or the County requires five years before you can submit for an STR application. So, that was one. The second potential amendment is to not allow Commercial-zoned, commercial-designated properties and/or larger properties with entitlements, let's say over five lots or actually ten lots. So, possibly the A&B 1,200 acres. It wouldn't apply to Mr. Snorkel Bob 'cause he's going to get a small lot. But, yeah, so anyway, it would be potentially two different changes to the bill aside from what we originally talked about, about the trigger.

COUNCILMEMBER SINENCI: And then you also mentioned the 90 days, and that the 90 days would I guess get rid of the preliminary approval?

MR. HORCAJO: Well, Ms. Lee is suggesting earlier that instead of... 'cause right now, it's based on you have to have your construction plans approved before passage. I had mentioned that the only bill before this was the "Show Me the Water" Bill that required construction plan submittal. All other bills required preliminary subdivision approvals. So, what I was saying was that if in fact Ms. Lee's suggestion does not pass the body, that really the grandfather is 90 days after you pass, I would hope that at least it goes back to prelim. 'Cause again, you have, whatever, five voting Members here, and you have of course nine Members. So, I'm not saying it's not going to pass but I'm just saying it's very unusual. If you go to Corp. Counsel and you ask Corp. Counsel the question, is this an unusual trigger, and she's going to say, yes. I'm just...I'm saying it's good. But I'm just saying it's just an unusual trigger, there's really no precedence for it.

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

CHAIR LEE: Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Horcajo. Mahalo for your written testimony, and the database, and the minutes. It's very helpful. I appreciate --

MR. HORCAJO: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: --that. Okay. So, I just want to clarify your position for tonight. So, are you in opposition to the amendments that is being proposed by the Chair? Or is it just the one part of the language, where it

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doesn't...where it's "preliminary" and not..."preliminary approval" and not "construction approval" that you would be opposed to?

MR. HORCAJO: I guess first of all, I'm in favor of what she proposed, the 90 days. But I'm also saying if it doesn't meet the approval of the majority of the Councilmembers, at least take it back to preliminary subdivision approval as being the trigger. Does that make sense?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. HORCAJO: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, with the 90 days, you support that?

MR. HORCAJO: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that...

MR. HORCAJO: I mean it looks better.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And, okay, and--I guess I can't find it...

MR. HORCAJO: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Maybe I'll come and talk story with you after to find like where you're mentioning in the bill.

MR. HORCAJO: About?

COUNCILMEMBER RAWLINS-FERNANDEZ: About the, where you would put the preliminary approval --

MR. HORCAJO: Oh --

COUNCILMEMBER RAWLINS-FERNANDEZ: --language.

MR. HORCAJO: --in Section 4.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MR. HORCAJO: In the Section 4 --

COUNCILMEMBER RAWLINS-FERNANDEZ: In the same area --

MR. HORCAJO: --at the very end --

COUNCILMEMBER RAWLINS-FERNANDEZ: --with the 90 days.

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MR. HORCAJO: --and just replace construction plan approved with preliminary subdivision --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I see it.

MR. HORCAJO: --approved --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. HORCAJO: --right there.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. Mahalo.

MR. HORCAJO: Thank you.

CHAIR LEE: Further questions? Bob, I have one for you.

MR. HORCAJO: Okay.

CHAIR LEE: It's kind of a question statement but, you know, you asked if we read the minutes of prior meetings, and I have, you know, read some, quite a few. Did you read any Committee reports by any chance?

MR. HORCAJO: Of your meetings or the WRC --

CHAIR LEE: Prior --

MR. HORCAJO: --before?

CHAIR LEE: --meetings?

MR. HORCAJO: Yeah, I read --

CHAIR LEE: Prior notes on...

MR. HORCAJO: --all the WRC meetings, the four meetings they had before first and second reading. The last reading was September 2nd, right. The three previous meetings never talked about--if that's what you're going to ask me--the three original meetings in June, July and August never talked about adding the two-lot exemption Countywide.

CHAIR LEE: Okay.

MR. HORCAJO: It was just the September one.

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CHAIR LEE: Yeah, just for everybody's information and possibly for yours, I'm not sure if you saw this already. But while I was reading these past Committee reports, did you notice that the heading of the bill did not change? In other words, the bill that passed said, A Bill for an Ordinance Amending Chapter 14.13, Section 18.20.040, Maui County Code, Relating to Water Meter Issuance Provisions for the Upcountry Water System, yeah. So, the bill itself, heading, referred back to the Upcountry water meter system when that should have been taken out. So, yeah, you know, you're right in saying that that should have been caught but it wasn't. So, that added to the confusion I believe. When people voted on this item, I think some people thought it was still to exempt the people on the Upcountry water meter list. So, I'm not making excuses for anybody, but I'm just saying I think that's what happened. People were confused and it went through. And it should have been caught but it just went through. So, here we are dealing with this issue once again, three years later, after we've given people the right to subdivide without making any improvements. Naturally, these people are angry, right? They're not happy with us, they're angry. So, the best we can do is give them a little bit more time to come in and subdivide. And that's why I'm hoping the rest of the Members will agree to that 90-day exemption period so that they can come in and subdivide, and well, provide an application. But we understand, and thank you for the history, and I know, Bob, you've...you're very experienced in this field, and I appreciate the information that you did provide to the Committee. Thank you.

MR. HORCAJO: Thank you.

CHAIR LEE: Okay.

MR. HORCAJO: And also, Chair, I'm going to testify on WAI-18, I guess. So, I think that's on the...

CHAIR LEE: Okay. We'll call you back.

MR. HORCAJO: Okay.

CHAIR LEE: Give other people a chance. Next?

MR. CRILE: Next testifier is Jack Patnode.

MR. PATNODE (*from the audience*): I want to testify on water.

CHAIR LEE: Who?

MR. CRILE: Water. Okay. Christopher Fishkin, to be followed by Sherman Dudley DePonte.

MR. FISHKIN: Aloha, Councilmembers.

UNIDENTIFIED SPEAKER: Aloha. Good evening.

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MR. FISHKIN: Good evening. First of all, Ms. Lee, you just actually proved the unlawful nature of the execution of this bill. Thank you for doing that. Therefore, to give 90 more days after 3 years of basically the County taxpayers paying for all these unlawful subdivisions seems to me very unreasonable. They should be stopped immediately, and then grandfather in...actually, just like Mr. Horcajo, even though he's completely falsely representing everything else, but you should grandfather in all the subdivisions that have been given preliminary subdivision approval and not the construction, which came...comes after. So, you actually have to grandfather in all the preliminaries, otherwise, you're going to get sued. So, that should make Mr. Horcajo happy 'cause he actually didn't disclose, but he has a subdivision in preliminary approval in Iao Valley right now, which is why he is so concerned. You do have to stop the bleeding. Ms. Paltin is correct. This Council is now aware of that unlawful execution is incurring financial obligations against the County in violation of _____ 'cause you're aware. So, you're trying to stop it, and I think you really need to do it quick. Ninety days, it doesn't make any sense when it's been over for three years. The fairness bill, Mr. Sam Small is correct, the fairness bill will address the subdivision...subdivisions with fees in lieu, and Mr. Horcajo won't be complaining about anything, and the developers will pay their fair share, and the County will have the funds to pay for necessary roadway infrastructures, that's coming down the pipe from Christopher Salem in the Mayor's Office. Unlike Goode and Corp. Counsel who have for years in enriching developers at the County and taxpayers' expense. Ms. Lee, you asked me on August 23rd, who made me an expert on this two-lot subdivision ordinance material. I'm a paralegal who has done extensive research on three-lot deferrals, which led to Don Guzman submitting a resolution, which passed successfully for an audit in that matter, and I'm not being paid by the County. My research on the two-lot exposes the corruption by David Goode and Corp. Council to deceptively write secret language into Ordinance 425 [sic]. And Ms. Baisa is here and can confirm. She is correct that respectfully, to set the record straight, that this is all about David Goode. This is not about Gladys Baisa. Ms. Lee, you put it perfectly. They were all confused by Mr. Goode and Corp. Counsel. And I request that Ms. Baisa, please set the record straight because I think it will really help everyone realize who's the real culprit here. As to Mr. Horcajo and his letter, he himself has a subdivision in Iao Valley, and you will be grandfathered in so don't worry about it. But the...Ms. Baisa never said the stuff that he's talking about. He...she...he's completely misrepresenting her. He's a real estate agent. He's working with Goode. He has a...he has an SMA permit that had...is unfulfilled with 9 out of 23 terms in Olowalu, working with David Goode, who signed off on his unlawful subdivision. The fees in lieu will take care of people like him. He'll be fine. Finally, Attorney Oana, you have been a defendant in an ongoing case regarding this two-lot ordinance, which has been an open case until September 10th, when the County finally...when Corp. Counsel finally filed a judgment in that case, which can now be appealed, nevertheless, you've been advising this Committee as a defendant originally...

CHAIR LEE: Mr. Fishkin --

MR. FISHKIN: I'll finish up.

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CHAIR LEE: --can you...

MR. FISHKIN: I'll take my one minute...

CHAIR LEE: All right.

MR. FISHKIN: Thank you.

CHAIR LEE: Thank you.

MR. FISHKIN: Thank you very much. And you originally advised and approved the secret language, and now, you've been advising them while a defendant until just the 10th of September on this resolution. And you actually, now it's in the resolution that it didn't fulfill its lawful purpose in...you...now it's not in this resolution, and you approved that secret language by Goode. I'm asking you today, who directed you to actually help write and approve that ordinance with Goode? And I would request the Councilmembers in your investigative capacity, please ask--I'm finishing--please ask Ms. Oana, Corp. Counsel, who directed her to do that because it has led to --

CHAIR LEE: Okay.

MR. FISHKIN: --this --

CHAIR LEE: Thank you --

MR. FISHKIN: --unlawful --

CHAIR LEE: --Mr. --

MR. FISHKIN: --execution.

CHAIR LEE: --Fishkin.

MR. FISHKIN: Don't shut me down so...I mean --

CHAIR LEE: You're --

MR. FISHKIN: --Ms. Lee...

CHAIR LEE: --veering off the subject matter.

MR. FISHKIN: No, it's...

CHAIR LEE: You're veering off what is agendized.

MR. FISHKIN: Ms. Lee, this is the subject matter. It deals with the two-lot ordinance. It deals with County taxpayers and financial --

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UNIDENTIFIED SPEAKER: Recess.

MR. FISHKIN: --obligation...

CHAIR LEE: Shall I recess or you --

UNIDENTIFIED SPEAKER: Yes --

CHAIR LEE: --want to --

UNIDENTIFIED SPEAKER: --recess.

MR. FISHKIN: No . . .*(inaudible)*. . .

CHAIR LEE: --sit down.

MR. FISHKIN: . . .*(inaudible)*. . .

CHAIR LEE: Okay. Thank you.

MR. FISHKIN: Wait --

CHAIR LEE: Thank you.

MR. FISHKIN: --they may have questions, Ms. Lee.

CHAIR LEE: No. No.

MR. FISHKIN: No?

CHAIR LEE: Please sit down.

MR. FISHKIN: Wait, does any...don't you have to ask Councilmembers if they have any questions?

CHAIR LEE: No, I don't. I'm running this meeting. Can you please sit down? I'm going to...otherwise, I'm going to recess this meeting on account of you. You want that to happen, I'll do it. Thank you. Next person?

MR. CRILE: The next testifier is Sherman Dudley DePonte, to be followed by Shelley Maddigan.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MR. CRILE: Oh, you're...

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MS. YAP: It's WAI-18.

CHAIR LEE: Who's the next testifier?

MR. CRILE: Oh, 18...Shelley Maddigan.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR LEE: Oh, that's water.

MR. CRILE: Okay. Mike Spalding?

MR. SPALDING: I'm here for the water.

MR. CRILE: Water.

CHAIR LEE: Water.

MR. CRILE: Okay. Leilani Carvalho?

MS. CARVALHO: Carvalho.

MR. CRILE: Carvalho.

MS. CARVALHO: Carvalho. That's okay . . .*(inaudible)*. . . Good evening. Can you hear me?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MS. CARVALHO: Sorry, I'm new. I don't normally come to these things, I write letters, I'm shy. So, I'm Leilani Carvalho.

MR. CHING-JOHNSON: Step into the mic.

MR. CRILE: Move a little closer.

MS. CARVALHO: Move closer?

MR. CRILE: There you go, yeah, move close.

MS. CARVALHO: I don't want to be too loud. And actually, Mr. Horcajo has said a lot of what I had to say already. But I have two things. One, I like the bill to stay just the way it is. And if I have to, then I like some of the changes that would include preliminary subdivision in Section 4. And part of that is because if you're exempt from, as it is now for improvements, construction plans aren't approved, you know, approval isn't needed. So, most of the people that had these exemptions for these two lots are not going to have construction plan approval. So, that's one reason. So, I think preliminary subdivision is the way to go on that one. Can you hear me? Okay.

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The reason that I like it to stay the way it is is because of what it says current Upcountry water meter list. So, I'm a sixth-generation property owner from great-great-grandparents, all the way till today. And so, two reasons. One, I am on the Upcountry water list now. And years ago, I tried to subdivide to provide housing for my children who are now going to be 30 and 26. And without that, my children can't afford to live here. Period. So, you are taking away affordable homes, not only from everybody else but local people. Like if I could get this subdivision, these two lots, I could build a house and a cottage, and rent out the cottage at a affordable rate. I don't understand why we would be taking that way. And also, there have been generations of people on the Upcountry water list for over 40 years. My grandparents was one of them. When they finally could get their water meter was between 2007 and '15, when this exemption rule wasn't there. They didn't know about variances. We didn't know. He's right. Local people don't know. So, they just lost their meter. So, like our property in Kula right now, we're not on the list anymore. We couldn't do the exemptions. We didn't know about variances. I was 20 years old at that time. None of us knew. So, now, we can't do what we need to do on our property to provide for my brothers who are renting houses at astronomical prices because we're not on the water list anymore, because we lost our water meter 'cause we couldn't afford to do the improvements. So, you are taking away homes from local people by doing this and not leaving it the way it is, but if you have to, do preliminary 'cause that's fair. The other thing I wanted to state--I'll make it fast, sorry--it's variances. Everyone keeps saying getting these variances. Variances cost money. And when you get a variance, and correct me if I'm wrong, I'm not a 100 percent sure, I know you need insurance and liability on the lifetime of that property, that that variance is on there. How are the families going to afford that? I couldn't afford a million-dollar liability policy on my property because of a variance for the entire lifetime that that variance is sitting on my property. So, again, you're taking away affordable homes for families, generations that have been here. That's huge. It's huge. That's it.

CHAIR LEE: Thank you. Questions? Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Ms. Carvalho, for coming.

MS. CARVALHO: Thank you.

VICE-CHAIR PALTIN: I had couple questions. You're planning on taking advantage of this legislation?

MS. CARVALHO: So, what happened was I didn't know so I had put in for a subdivision prior 'cause I was on the list, but I didn't know I had to make all these improvements, but we've waiting 'cause I had no water. So, nobody would sign off on a subdivision. And it wasn't a two-lot exemption, I filed this back in 2008 or '09. There was no exemptions at that time. My husband and I were just going to try to figure out how we were going to do it --

VICE-CHAIR PALTIN: And...

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MS. CARVALHO: --but we had no water. I just got my water meter award. They just sent me the letter saying I can get it. So, now I finally could do it. But now, if I have to do these exemptions, there's no way, like I'm a single mom by myself.

VICE-CHAIR PALTIN: If you don't get the exemption --

MS. CARVALHO: Yeah, if I...

VICE-CHAIR PALTIN: --for . . . *(inaudible)*. . .

MS. CARVALHO: If I'm going to be required to put this in. Now, my property is on Kaupakalua Road, there is no curb and gutters on Kaupakalua Road. So, to...

VICE-CHAIR PALTIN: You...but you got your water meter from being on the list, and now you got it?

MS. CARVALHO: I don't have it in there yet. But I was on the list, and I got a letter saying you're up to get a meter, and you have so much time to put that meter in. So, now, I'm trying to figure out what to do, and if I can...I've put the money down on it, but that doesn't mean I can do it, but it costs 3,500. And just to like survey my land, by the time I'm done doing a subdivision with just preliminaries, with land surveying and all that, a local or any person will have between 30 and \$50,000 in already just for a two-lot subdivision without the, you know, without the improvements.

VICE-CHAIR PALTIN: To me, I kind of feel like you were on the list. So, this, as it was intended, applies to you.

MS. CARVALHO: It does for Haiku but not Kula.

VICE-CHAIR PALTIN: Oh, 'cause you weren't on the Upcountry water --

MS. CARVALHO: Because my --

VICE-CHAIR PALTIN: --meter list?

MS. CARVALHO: --family lost it. Because when the water meter was...they got the letter saying you can have your water meter, that it was...the improvements were required, and my family didn't know about variances. We didn't know. So, that's gone.

VICE-CHAIR PALTIN: Could you go through the family subdivision one?

MS. CARVALHO: Family subdivisions require improvements. It only postpones it. A family subdivision, according to Department of Public Works, is just like a regular subdivision. You still have to do the improvements. You just get to postpone it, but they still have to be done.

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CHAIR LEE: Okay. If I could intervene right now, I think you may be misunderstanding what we're doing here. You're going to subdivide the two lots?

MS. CARVALHO: I would like to.

CHAIR LEE: Yeah. So, if you do, you put in your application and you will be exempt from road improvements.

MS. CARVALHO: Yes, I'm not confused on that, as long as I get my 45-day approval within the 90 days if you change it, if it gets chosen --

CHAIR LEE: No --

MS. CARVALHO: --for that.

CHAIR LEE: --no, you don't need approval.

MS. CARVALHO: Oh, 'cause I thought the wording was preliminary subdivision approval.

CHAIR LEE: No, what we're going to do tonight is I'm going to propose to our group if we could change that exemption to...all you have to do is apply for a subdivision.

MS. CARVALHO: Okay.

CHAIR LEE: You don't need preliminary subdivision approval.

MS. CARVALHO: Great. But then --

CHAIR LEE: That...

MS. CARVALHO: --that doesn't take care of the property in Kula that lost the water meter back in 2009 because we didn't...we couldn't do the improvements. So, I'm here for two reasons. One, you're right, what you're doing if that passes, it doesn't affect me. I get to have housing for my children. But I'm also on the other end for people that can't do it because they lost their water meter, they're no longer on that list. And what about people like Lanai that --

CHAIR LEE: But --

MS. CARVALHO: --have two ____.

CHAIR LEE: --you don't have to be on that list. You have 90 days to apply for an application, a subdivision application, whether you're on the list or off the list, you have 90 days, yeah.

MS. CARVALHO: Okay.

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CHAIR LEE: And then this is going to take probably a month or so. So, it's like you have more than 90 days, probably till January or February, when this actually will take effect. So, that's a lot of time --

MS. CARVALHO: I agree.

CHAIR LEE: --for people to just apply. That's all you have to do is apply.

MS. CARVALHO: But to apply, you'll have to also have your land surveying done, you have to have title reports --

CHAIR LEE: No, you don't.

MS. CARVALHO: --and all that needs to be --

CHAIR LEE: No, you don't.

MS. CARVALHO: --turned in.

CHAIR LEE: We said an application. We didn't say you have to have all those other things completed as far as preliminary subdivision approval.

MS. CARVALHO: Okay.

CHAIR LEE: Just fill out the paper application. Okay.

MS. CARVALHO: . . .*(inaudible)*. . .

CHAIR LEE: You don't believe me, we --

MS. CARVALHO: I'll go . . .*(inaudible)*. . .

CHAIR LEE: --have Rowena coming too, the Director of Public Works coming in a little while. You can talk to her. Okay. An application is an application. It's not full of all kinds of conditions. But of course, we have to vote on it tonight.

MS. CARVALHO: Well, yeah.

CHAIR LEE: Yeah.

MS. CARVALHO: But I mean again, like I said, I'm here also for...like I said Lanai, they have two _____. They're going to have that same problem. They're not on a water list and they have...you know what I mean. I understand the 90 days but not everybody is going to get in at 90 days, and that's...

CHAIR LEE: And I think with the BVA, when you talk to the Director, ask her about the BVA. I never heard such a thing where you have a million-dollar policy or whatever it

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is, liability, no, I don't think that's what the BVA does, but you can get that information from the Director.

MS. CARVALHO: Yeah.

CHAIR LEE: Okay.

MS. CARVALHO: I don't know how high the policy is but I know you need some type of insurance.

CHAIR LEE: Okay. But it's not going to break you I believe. Go ahead.

MS. CARVALHO: Yeah.

CHAIR LEE: Anybody has...

MS. CARVALHO: Any other questions?

CHAIR LEE: Any other questions? If not, thank you very --

MS. CARVALHO: Okay.

CHAIR LEE: --much for coming.

MS. CARVALHO: Thank you.

CHAIR LEE: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I have a question for you?

CHAIR LEE: For who?

COUNCILMEMBER RAWLINS-FERNANDEZ: For you.

CHAIR LEE: Oh, okay. What would you like to know?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. I would just like clarification on the Section 4 of your proposed amendments. So, you just mentioned to our...this testifier, Ms. Carvalho, about it being under the grandfather clause, instead of construction plans approved by Public Works. That...so, is your proposal then to amend Section 4 to say valid subdivision with application submitted to Public Works?

CHAIR LEE: Yeah, there are two things I'm going to be proposing to you for clarification of...the first one you heard earlier. But on Section 4, this ordinance shall take effect upon its approval, except that the version of Section, you know, Maui County Code, in effect prior to this ordinance's enactment shall apply to a subdivision that submitted a

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valid subdivision application within 90 days from the effective date of this ordinance. That's what I'm going to propose to you.

COUNCILMEMBER RAWLINS-FERNANDEZ: And striking construction plans approved?

CHAIR LEE: Yeah, yes, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. I just wanted clarification for myself and for everyone, all the future testifiers. And then that way, I think 'cause a lot of people were testifying that they wanted the construction plans approved stricken, and then put preliminary approval. But what you're proposing to do is even better than that?

CHAIR LEE: Yeah, much more liberal than preliminary plans.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR LEE: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: All right. I hope everyone heard that clarification. Okay. Mahalo, Chair.

CHAIR LEE: Yeah, you're welcome. Any other questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR LEE: Next testifier?

MR. CRILE: Our next testifier is Gladys Baisa.

CHAIR LEE: How about a applause for . . . *(inaudible)*. . .

MS. BAISA: I'm very short. Good evening --

UNIDENTIFIED SPEAKER: Good evening.

MS. BAISA: --and thank you for the opportunity. You know, I came here tonight with no intention of testifying. I came here to listen, which I like to do a lot because you learn a lot more when you listen than when you talk. But I've heard enough, and I hear my name being brought up over and over. And I think it's time to put some facts in the record. First of all, why did this even begin? It began because like other people have said, my family has been Upcountry for...since 1878. My grandfather worked his butt off as a farmer and raised a family of ten, and managed to own most of Maha Road when he died, which he left to his children. He broke it up into three-acre lots and he gave it to them. I still own a lot on that road today, which I'm trying desperately to hold onto 'cause it is the only way that my children and grandchildren will ever have homes on Maui. This is impossible. We don't have lawyers and doctors and rich

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people in our family. We're construction workers and people that work doing things like I did, social work helping people, nurses. They're never going to own homes that cost \$800,000. But if we can have the land and we can help them build, then maybe they can. For myself, a disclosure, I am on the Upcountry meter list. We're number 700-and-some. I can't keep track of it. It kind of changes as it goes down. So, I may be a little closer but I know I'm still in the 700's. So, my chance of getting a water meter letter in my lifetime is getting very nebulous 'cause I turn 79 this year. So, it will be another story of another decade where land is passed down and nobody benefits. So, anyway, with all of this background and having lived with the water problem throughout my entire life, when I finally was given the Water Committee by Chair Mike White, I was very happy to have the opportunity to see if in that two-year period, I might have the opportunity to do something to help with this Upcountry water meter list, which I think is a shame for our County. I really think it's a shame. And all of us who have been officials need to be ashamed about it. It shouldn't exist. It's a terrible thing. It has really been the bane of many, many people struggling to try to hold on to land and pass on to their kids. But because they don't have the money to do what is required...they can build the house. They can...you know, a lot of us are lucky we live in extended families. Like in my family, I have a journeyman carpenter. I have a water person. I have my husband who was Mr. Handyman, and we can do a lot of the work ourselves if we could just get the materials. But it's all this other stuff that came in. And the reason why I put the proposal for the bill forward was I was hearing all the stories about the people who after waiting for 30 years finally get the Water Department [sic] letter that says, you are...this is your lucky day, now you can come in and apply for your meters. And so, I heard all the stories. They rush down there. They have 30 days to try to tell the Department, yes, I can accept it or not, to find the money, figure out what they're going to do with it or can they do something with it, and talk to engineers, and get the people like our friend Dudley to come in, and, you know, survey the land, and do whatever it is they have to do. So, thank God before I left, and I want thank, Chair, very much, Chair Lee, for getting that extension, and all of the Council, for passing it so they have a little more time now when they get that letter. But I was hearing all these stories about people getting their letter, and then they have...

CHAIR LEE: Ms. Baisa --

MS. BAISA: Yeah.

CHAIR LEE: --could you hold one second? Any objections to designating Ms. Baisa as a resource person?

COUNCILMEMBERS: No objections.

CHAIR LEE: Okay.

MS. BAISA: Thank you. I really appreciate it. I want to tell the story because it's being told by a lot of people, and I'm going to tell you, this is God's honest truth, I have no reason to lie, and I'd put my hand on a bible if you wanted to hear it. So, anyway,

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having gone through all those experiences with my friends and neighbors, and my family, and everybody say, well, we cannot accept the meters because we cannot do the improvements. I worked with my Committee and I worked very closely with Ms. Taomoto. I want to thank her publicly. I don't think I would have gotten through two years at the Water Department [sic] without her. She is the heart and soul of that Department and knows it backwards and forwards. And so, she helped me a lot to get through the technical side of what I needed to get through. And I also worked with Corp. Counsel in my Committee to see what could we do. And so, we came up with this idea of can we find some exemption with water, not roads or anything else, water, to see if we...the water improvements that they want you to do it, can we get some kind of an exemption. I worked with the Fire Department. I worked with everybody I could get my hands on, and we finally came up with the bill, and we took it through the process. We took it through the Committee, and the Committee worked on it, and worked on it, and worked on it, and we were very close to getting it to the point where we could present it for approval when one day, and this is God's honest truth, I was talking with Director Goode. And I worked with Director Goode a lot and he helped me a lot in all the things I did, both on the Council and ever since, he was always there to help. And he mentioned, he said, you know, you have this great bill that's going forward, I wonder if you could add something to it. And I said, what? And he says, well, you know, you can do a great job of getting people to build their...get their meters and build their stuff with water and fire exemptions, but I don't think that they're going to be able to deal with the road improvements, and that will be another barrier. So, all the work that you do is going to be for naught if you don't look at the road improvements. So, he said, you know, a lot of people are coming to us, and they're going to the BVA for exceptions, and they're getting them, that most are granted. And so, it would be smart if we just put this in your bill and include the road improvements, and we'll get it through all at once, and then maybe your people can accept the meters because they won't have to come up with all this money. That sounded very, very good to me, and maybe over simplistic, but I didn't do this in a...behind the door, in secret. It went to my Committee. Everybody saw it. It was written. Corp. Counsel looked over it and said...didn't say this is a bad thing. The Members all looked at it. Nobody saw anything terrible, myself included, and we passed it. And that is how that whole thing came about. Again, we were totally focused on helping the Upcountry people. And then of course, you know, I left the Council. And I went on to try to help in the Water Department [sic] and other things, and I took on other problems there. We were able to make some good changes that I'm very proud of in a very short time. But all of a sudden, I started listening to the election rhetoric, and all of a sudden, I was being lambasted about passing this horrible bill. And that's when I became aware. Now, this is almost three years later, at least two, that there was a problem. I had no idea. Nobody ever said, you know, it's come to Public Works, we don't like it, it's gone to Water, it's not good. Nobody told me. Planning never said anything. I assumed this is something good that we had done. And I can give Sam Small credit, he brought it up, and he said, look at what's happening? These big landowners are taking advantage of your two-lot subdivisions. This is bad. And my response is, if it's bad, it was an honest mistake, fix it. Let's quit talking about it. Let's fix it. We need to keep the intent, which was good, and take out the bad part where everybody got included, including big developers who were never

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intended to be beneficiaries. And that's the story that I can share with you. So, I'm open to any questions that you have.

CHAIR LEE: Any questions, anyone? Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Good evening, Gladys, and thank you --

MS. BAISA: Good evening.

COUNCILMEMBER MOLINA: --for coming here and shedding light on this. In your conversations with Mr. Goode, was there at any time any written communication between you and him and, you know, as to his --

MS. BAISA: Yeah.

COUNCILMEMBER MOLINA: --suggestions in writing?

MS. BAISA: He helped, you know, to give me the language, and Corp. Counsel, the language that he thought should be included. He also brought his engineer, Ms. Otani. She also came to verify that the BVA was getting all these requests, and that it would probably be better to just take care of them and exempt them so people didn't have to go through the BVA process. We were just trying to make things easier.

COUNCILMEMBER MOLINA: Yeah, I think the initial intent was good, and unfortunately, the unintended consequences were...was this, what we've just been --

MS. BAISA: Right.

COUNCILMEMBER MOLINA: --talking about. So, and Mr. Goode was at the Council meeting when all of this language was out there. So, he was there as a resource.

MS. BAISA: He attended as a Department Director.

COUNCILMEMBER MOLINA: Okay.

MS. BAISA: You know, I really feel this is a big misunderstanding. And that maybe, he didn't clearly understand the original bill 'cause he came in later, and all the work that we had done up until adding him in.

COUNCILMEMBER MOLINA: And the original intent --

MS. BAISA: Yeah --

COUNCILMEMBER MOLINA: --was for the...

MS. BAISA: --was for Upcountry.

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COUNCILMEMBER MOLINA: Right, right.

MS. BAISA: And he may have, you know, not really understood. I want to give him the benefit of the doubt.

COUNCILMEMBER MOLINA: Yeah.

MS. BAISA: I enjoyed working with David and I never had any problems with him.

COUNCILMEMBER MOLINA: All right. Thank you.

CHAIR LEE: Ms. Sugimura, then Ms. Paltin?

COUNCILMEMBER SUGIMURA: Thank you. So, I just wanted to confirm that it is in your meeting, your Water Resources Committee meeting of September 2, 2015, your open discussion with Mr. Goode and the --

MS. BAISA: Right.

COUNCILMEMBER SUGIMURA: --Committee. So, you're absolutely right.

CHAIR LEE: Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Ms. Baisa, for coming down in person setting the record straight. I think a lot of people are happy to hear that...what actually happened. I just was wondering your preference as the original author, what you would like to see going forward? Did you want to bring it back to before, and then work on something more comprehensive? Did you want to have it apply to everyone up until they put in their application and 90 days later? Like as the original person that was the driving force behind this bill, what would be your preferred intention for moving forward?

MS. BAISA: You know, I don't...I haven't studied what Ms. Lee is proposing, but I trust her enough that she understands what I was trying to do, and she'll try to make that happen, and all of you.

VICE-CHAIR PALTIN: Thank you.

MS. BAISA: I know we all want to help our people. That's why we're in office. We're not in office to do bad things. We're there to try to help. And sometimes we go awry, and if we go awry, I think it's okay to say I made a mistake, let's fix it. It's okay. We're all human beings.

VICE-CHAIR PALTIN: Do you have concern as to leaving it open for that window for everybody that a lot of commercial people are going to do a mad dash to put in an application?

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MS. BAISA: I have every reason to believe that's what's going to happen. Why wouldn't they? Why --

VICE-CHAIR PALTIN: Okay.

MS. BAISA: --wouldn't they?

VICE-CHAIR PALTIN: Thank you.

MS. BAISA: You know. I remember when we said we're going to cut the water meter list. It went from 1,200 to 1,700 in a couple of weeks, right? Right, Wendy?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR LEE: Are there any other questions? Thank you so much, Gladys, for coming tonight. And I just want to say that the person who initiated this bill is actually Tamara Paltin, and then she gave me all the work to do after that.

MS. BAISA: Good. Well, thank you, Tamara, and thank you to all of you. You know, I really appreciate having a cooperative relationship with you guys. It's really important. I know how hard it is to sit behind those seats. And no matter what you do, there are people that will like it and people that don't. But I think what we feel in our heart is the most important thing.

CHAIR LEE: Thank you. We have one more question. Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Ms. Baisa, again for coming up here and giving your side of the story. It's really important. My question is Chair asked if you would serve as resource.

MS. BAISA: Oh, absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so, I'm just wondering if you would be able to stay for the duration of the meeting?

MS. BAISA: I plan to.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Great.

MS. BAISA: I don't know how hard the benches will get but I'll try. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo nui. Mahalo, Chair.

CHAIR LEE: Thank you. Are there any more questions? If not, next testifier on this subject?

MR. CRILE: There are no further testifiers signed up for this item.

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CHAIR LEE: Anybody changed their mind out there who want to testify?

. . .END OF PUBLIC TESTIMONY for WAI-38. . .

CHAIR LEE: Okay. If there are no objections, I really don't think, Members, that this is going to take too long 'cause I just have two amendments, proposed amendments, and you heard them already. So, can we begin discussions so that we can vote on this matter?

COUNCILMEMBERS: No objections.

CHAIR LEE: Okay. I mentioned to you earlier, if you take out your draft bills, the first...they always hold on to these things, yeah. You guys could have been reading them. Okay. All right. I don't know if this lines up with what Corp. Counsel just handed me. But, everybody, turn to . . .(inaudible). . .

MS. YAP: . . .(inaudible). . .

CHAIR LEE: . . .(inaudible). . . Okay. Turn to your draft ordinance. Okay. So, on the...excuse me, we'll take a short recess. . . .(gavel). . .

RECESS: 7:30 p.m.

RECONVENE: 7:32 p.m.

CHAIR LEE: . . .(gavel). . . Okay. We already went through this ordinance in Committee. So, I don't believe I need to read it back to you. But there are two changes I would like to propose to you. And the first change is on the first page, one that says ordinance, bill number. It says, "A Bill for an Ordinance Amending Section 18.20.040, Maui County Code, Relating to Improvements Upon Existing Streets." Everybody on that page?

COUNCILMEMBERS: Yes.

CHAIR LEE: All right. Under Section 2, number four, here comes the first proposal. Okay. So, where it says, a subdivision...you following me?

UNIDENTIFIED SPEAKER: No.

CHAIR LEE: Number four, Section 2, A.4.

UNIDENTIFIED SPEAKER: . . .(inaudible). . .

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CHAIR LEE: Okay. Everybody, again, Section 2, where it says, "No improvements shall be required upon existing streets." Okay. Apparently, the numbers have been removed. So, where it says, "A subdivision creating only two developable lots," you with me?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR LEE: All right. That receives--this is the change--"that receives water service pursuant to Section 14.13.065 of this Code"--and then comma--"subject to the following." So, those were the words.

VICE-CHAIR PALTIN: So, I think that you handed out . . . *(inaudible)* . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, it doesn't say that . . . *(inaudible)* . . .

COUNCILMEMBER MOLINA: Madam Chair, can I request a recess so that --

CHAIR LEE: Sure.

COUNCILMEMBER MOLINA: --I can go over this? Thank you.

CHAIR LEE: Recess. . . . *(gavel)* . . .

RECESS: 7:34 p.m.

RECONVENE: 7:36 p.m.

CHAIR LEE: . . . *(gavel)* . . . Will the meeting of the Water and Infrastructure Committee please reconvene. Okay. I think we may have solved the problem, but not the whole problem. Okay. What...you have read the ordinance. I said earlier I'm going to try and make two changes. One is substantive, and the other one is not. So, I'm just going to focus on the substantive one, and we can do the language change probably at first reading, okay? Everybody on...with me?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, with you.

CHAIR LEE: Okay. So, the proposed amendment will be under Section 4 at the bottom of your page.

UNIDENTIFIED SPEAKER: Yeah.

CHAIR LEE: Everybody, you see Section 4?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR LEE: Okay. Where it says, "This ordinance shall not apply to subdivisions that receive preliminary approval within 90 days after the effective date of the ordinance." Okay. So, my proposal will be at the right time after we get a motion. We'll do this

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first, "this ordinance shall take effect upon its approval, except that the version of Section 18.20.040, Maui County Code, in effect prior to this ordinance's enactment shall apply to a subdivision that submitted a valid subdivision application within 90 days from the effective date of this ordinance."

COUNCILMEMBER KAMA: So moved.

CHAIR LEE: Yeah, we went around the mulberry bush on this one but this is what our Corporation Counsel wants us to use in terms of verbiage. Okay.

COUNCILMEMBER KAMA: So moved.

CHAIR LEE: Questions...

VICE-CHAIR PALTIN: Yeah, I was wondering since Ms. Dagdag-Andaya is here, if we could have a comment from her on how that's going to affect like if the tax, it's going to be a heavy burden on the taxpayers because now how much we're responsible for, if that she can like have any comment on the language --

CHAIR LEE: Okay.

VICE-CHAIR PALTIN: --that she understands it.

CHAIR LEE: Ms. Dagdag-Andaya, do you have a comment on this proposed amendment?

MS. DAGDAG-ANDAYA: Thank you, Chair. I just wanted to note that this is the first time that I'm seeing this language. So, I guess my understanding of the proposed language would amend Section 4 of your bill to state that the amendment would allow subdivision--let's see, striking--the ordinance shall take effect upon its approval except that the version of Section 18.20.040, Maui County Code, in effect prior to this ordinance's enactment shall apply to an application for a subdivision approval from the Department of Public Works that is valid within 90 days after the effective date of this ordinance. So, basically, you're saying that once you pass this ordinance, applicants have 90 days to submit an application for submittal to the Department of Public Works, and that upon submitting the application, they would be eligible for any exemptions if they meet the criteria for this two-lot --

CHAIR LEE: Yes.

MS. DAGDAG-ANDAYA: --subdivision? You know, as for Public Works, I mean we can implement any ordinance that you...that the Council wishes to approve and pass. This, I, you know, I...it might have an effect on applicants and their ability to get an application completed. I know right now, part of the requirement for a subdivision, I mean you have plans to draw, you have to have all of your documentation completed, you need a survey done. I know surveys alone take a lot of time. And like right now, some companies have a six-month backlog in order to get surveys done. So, that would...that wouldn't allow for anyone to have a survey completed, you know, or a

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subdivision application completed within 90 days. That might be a hardship for some applicants.

CHAIR LEE: Okay. What we are looking for now are solutions. And look at it this way, if we did not do anything about this open-ended exemption, you will have way more work, yeah, over an extended period of time than 90 days, like you might have a little bit more workload in 90 days. But after that, you know, you go back to normal. The way it is now, people have a choice and they're going to be thinking that we're taking away something from them, yeah. So, because we're taking something away from them, we ought to give them ample time to be able to do their subdivisions. So, that is the reasoning behind the 90 days. Now, if you feel that they cannot complete an application in 90 days, then perhaps an intent to apply should suffice. We're trying to fix the...you know what, we don't want to give them 90 days so like 2 people can qualify, you know. We want to give them a fair chance at getting an exemption. So, is an intent to apply good enough or, you know, that's all we want. We don't want a completed application to the point where, you know, you can build from then on. I mean we want a basic application. So, do you...if we don't have a basic application without a lot of survey work to be done and Environmental Assessments, and all these other cultural assessments of...there must be some kind of application that we can, or notice to apply, that we can create so that people can do this, and they only have 90 days. It's not like they have, you know, 90 months, it's 90 days.

COUNCILMEMBER SINENCI: Chair?

CHAIR LEE: Yes --

COUNCILMEMBER SINENCI: I had a --

CHAIR LEE: --Sinenci?

COUNCILMEMBER SINENCI: --clarification question. So, originally, I thought that the 90 days was after the passage of this bill --

CHAIR LEE: Yeah.

COUNCILMEMBER SINENCI: --after the approval so that it would go ahead and approve all the ones that are still in the queue, is that correct?

CHAIR LEE: The people in the queue are pretty much exempt because, you know, we have certain liabilities after they've done...they've invested a lot of money to get to that point. So, we're not talking about people in the queue. We're talking about people who didn't even know that this was happening to them by us.

COUNCILMEMBER SINENCI: Okay.

CHAIR LEE: Yeah, that's what's happened. So, we need to get the word out to let people know that they can apply for subdivision and hopefully, they'll meet that 90-day

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window. But the Director of Public Works is saying that the application process is so lengthy that they may not even be able to apply in 90 days. So, I'm saying, is there an alternative? Is there an easier way such as a notice to apply, a notice of intent to apply?

COUNCILMEMBER SINENCI: Okay. Thank you, Chair.

CHAIR LEE: And then I saw a hand on this side. Ms. Paltin?

VICE-CHAIR PALTIN: I just was concerned. I know Ms. Baisa was also designated a resource person but it seemed to me that her indication was that she was concerned that everybody is going to bum-rush like...and so, for me, I would feel more comfortable if we, you know, said, this shall not apply to commercial businesses, it shall not apply to non-residents, it shall only apply to folks that own their property for 20 years, and maybe also that their property value is below 1.5 million. 'Cause if they have like \$10 million property, why are we paying for their sidewalks and things like that. So, I mean, if we're going to try and fix it tonight, I don't feel comfortable with all those people having a 120 days to just give an intent or an application because our true purpose is to help the folks like Ms. Carvalho and Mr. Nago, not Snorkel Bob and so on and so forth. So, I mean I think like fiscally responsible, we need to at least try do a little bit more than just saying, you know, this applies Countywide to anyone who can get their application within 90 days, because then everybody that's struggling to pay just, you know, homeowner property tax is going to be paying for Snorkel Bob's sidewalks, they're going to be paying for, you know, A&B's whatever, or maybe not A&B, but I think like we got to honor Ms. Baisa's intent to the best of our ability. And so, I mean --

CHAIR LEE: Well --

VICE-CHAIR PALTIN: --if...

CHAIR LEE: --let's call her up. Ms. Baisa? Ms. Baisa?

MS. BAISA: Yes?

CHAIR LEE: The question is --

MS. BAISA: . . .*(inaudible)*. . .

CHAIR LEE: --would you be so worried about the 90-day window and people rushing to the Public Works office to apply that you would add a whole bunch of conditions to this ordinance?

MS. BAISA: I share the concerns. Having been through the thing with the water meter, you know, a dog once bit or bites you once, you know, you get kind of worried about it. I went through it. It was unbelievable what happened. We had like I said about

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200 people on the list, and when they announced they're going to close it, it went to over 1,700, I think almost 2,000 people in just a matter of weeks.

CHAIR LEE: So, how would you answer that question?

MS. BAISA: I'm concerned that maybe that 90 or 120-day window may be too large unless you limit it to the people we're trying to help.

CHAIR LEE: Okay. Do you have other questions for Ms. Baisa? Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I guess I have a question for you, Chair.

CHAIR LEE: Okay.

MS. BAISA: I'll just be here.

CHAIR LEE: I'll be your resource.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, as you opened up the meeting with your comments, you said that the intention today was to make the corrections for the original intent of what Councilmembers had thought they had passed back in 2015. And that the intention of this Council was to continue to work on this for other areas, other rural areas, or however we're going to work on it, so that it would continue to catch those in districts or areas of need, and that that intention of continuing to work on this bill would catch those who are unaware of the action that the Council is currently taking.

CHAIR LEE: Nicely put but I didn't say that. You know, I'm not going to spend the whole night on this item. We can send this back to Committee but I'm not going to take it up right away because every time we take this up, somebody has a brand new idea. And if we, you know, at some point, you have to like take the bull by the horns and make a decision. And what we were initially and primarily trying to do was close a loophole, not take care of the whole world. Unfortunately, this action was taken three years ago, four years ago, and now we're going to reverse it. So, imagine the people who were planning to do a subdivision. We're taking that ability away from them. So, I don't mind referring this back to Committee but it just means a delay. And the next time we take it up, I want you guys to write down all your proposals and be specific, and I'm not going to take...I'm not going to call another meeting after that. One last meeting. And, you know, I'm sorry it may create a burden on the Department for a short time, but obviously, this is what's going to happen when you reverse a decision. There's going to be impacts. But, you know, let's keep our eye on our audience, and our audience is the residents of this County, and we have to look out for the betterment of the majority. We can't be worried about somebody who has a family subdivision that's worth \$2 million, and the cutoff is 1.5, no. I don't think we ought to go that far. But some of you may have some other legitimate concerns, and I'm happy

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to deal with them but not tonight because that's obviously is going to take too long. Are there any more questions? Yes?

COUNCILMEMBER SUGIMURA: So, this is my question for Public Works. I guess there's like there's a clarification of applying. I mean it sounds like if somebody applies to Public Works, there are certain requirements that need to be met for it to be received, and yet, I think what Chair is trying to do is have somebody submit their paper to get on the, you know, within the 90-day window, and not have to do the applied checklist, I think that's what you're saying. Is it possible or is it something that you wouldn't do?

MS. DAGDAG-ANDAYA: So, like the proposal then is to have a notice of intent to subdivide or to prepare an application. And, you know, it does get confusing 'cause at what point, I mean they're going to...you're going to have all these...you know, I'm just trying to run the scenario in my head, and again, I haven't vetted this out with the staff. So, this is the first time that I'm looking at this, and I typically would defer and get comments from the staff to get an understanding of how it would affect them. So, if they were to...if the proposal is to have people give a notice of intent, I mean I'd like to get feedback from staff first. Otherwise, the way the amendment is written tonight, you know, you would require applicants to work on their subdivision application, complete all of this, which includes getting a survey and all this other supplemental documentation within those three months in order to qualify for this two-lot exemption.

CHAIR LEE: Actually, there...I believe under normal circumstances, when someone fills out that application completely, they receive a preliminary subdivision approval.

MS. DAGDAG-ANDAYA: No, that's not...when they complete the application, the application gets submitted to the Department, and then the Department checks for...this is a checklist, application checklist, and then once that application checklist has been verified and they...the applicant has provided all of the documentation that they need, then it gets routed to other departments for agency comment and review. Within 45 days, the...those agencies are to submit comments back to Development Services Administration, and then a letter with preliminary subdivision approval is provided to the applicant. At that time, the applicant receives all these comments that they need to fulfill in order to move towards final subdivision.

CHAIR LEE: With all of those requirements, lucky if you have five people get through the door in 90 days, right?

MS. DAGDAG-ANDAYA: It...quite possibly, yeah.

CHAIR LEE: Yeah. So, we're not talking crowds and busloads of people. Right now in the queue, we have like 24 people. So, you know, this is not the Upcountry waitlist. You're not going to reach a 1,700 people on, you know, coming through the doors in 90 days 'cause it takes time. It takes time to get your financing in order, fill out your application, and so forth. But now that we know the application is so cumbersome,

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you know, we're going to have to think of another way or make that window a little longer because, you know, we have to be fair. We have to be fair to people that we're taking away something from them. Okay. It wasn't their fault. It was our fault. It's our fault. So, we're trying to correct this. And we're trying to do this in the fairest way possible, not a punitive way because they didn't do anything wrong. We did something wrong. We made the error.

VICE-CHAIR PALTIN: Can I ask Corp. Counsel? Are we...

COUNCILMEMBER MOLINA: . . .*(inaudible)*. . .

VICE-CHAIR PALTIN: Oh, sorry.

COUNCILMEMBER MOLINA: No, no, go ahead . . .*(inaudible)*. . .

VICE-CHAIR PALTIN: Are we obliged to owe people this other than what's on the agenda like, you know, there was a mistake made, and some folks are making out on it, are we obliged to let everyone who thought they might take advantage of it a chance to make money off of it or is it within our authority to say stop the bleeding now?

MS. OANA: You're not obliged. Basically, the law changes all the time and things...and situations change with the law. So, you know, the law changes all the time. And if people fit into that situation, good for them, and if not, then, you know, that happens.

CHAIR LEE: Okay. Everybody got their opinion in. Yeah, I will...I just want to say that the people are out here not to cheer us to make things harder, you know. They're here because they have gone through the process and had a hard time. So, you know, who are we working for, right? The community. So, please keep that in mind. Mr. Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. So, the question is for Public Works Director Dagdag-Andaya. So, you hit on something earlier in your response to Committee Chair Lee about having it go, you know, the application going through other departments and agencies. So, is that where your concern is because with the 90-day window that...and let's face it, it's our fault sometimes with our County departments, things sit on people's desk and they don't get addressed, and then there's this clock ticking on the applicants. So, and I know you just got this tonight, so is there anything just off the top of your head like where the applicant can apply for an extension in the event because their application has been sitting in a different department waiting to be reviewed? Is there any type of, any language that you feel we could add to this, to Member Lee's proposed amendment --

MS. DAGDAG-ANDAYA: I think...

COUNCILMEMBER MOLINA: --at this point?

MS. DAGDAG-ANDAYA: Chair, the...well, I mean again, it goes back to we can process and implement any ordinance that...that's passed by the Council, but the hardship for

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many of these families is just trying to get an application put together. So, you know, regardless whether or not it goes to agency for review, in order to get to the stage where you're able to apply for a subdivision, it may take longer than 90 days. Now, it could be, I mean you could have some applicants who it's going to take them six months to a year to put together an application package. There may be some who would need only two months. But I guess what I'm trying --

COUNCILMEMBER MOLINA: So --

MS. DAGDAG-ANDAYA: --to say...

COUNCILMEMBER MOLINA: --it just varies on the size of the proposed project I guess.

MS. DAGDAG-ANDAYA: Either proposal or the ability for the applicant to even pay for the service 'cause my understanding is that it's not cheap, it's not inexpensive. It's a lot of resources that a family has to put together in order to put a subdivision application through. So, those are things to consider. You know, we did...the Department did put together a letter, and I apologize for the delay and the response, but there are some suggestions in our letter, maybe limiting the exemption to land zoned Residential or Rural or, you know, maybe limiting the size of the subdivision. You know, you can...there's a certain threshold. But again, you know, those are things that the Committee would need to vet and get suggestions, or maybe work with the community, different community groups who have an interest in this. So, that's kind of where, you know, I...we're coming from or the Department is coming from and...yeah.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR LEE: Any other questions? Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I was going to take it in the same lines as the Director, you know, we could be looking at changing some of the language in the bill to show that it's just...I mean it doesn't apply to Commercially-zoned, to keep the commercial aspect out of the bill. And also, maybe looking at the 5 years like some of the testifiers had said or, you know, even longer, whichever we would want to feel it's...that maybe after owning the property after 5, 10, 20 years, whichever, that, you know, so that addresses, you know, keeping it with the intent that it was intended for. So, maybe looking at some sections of the bill where we could maybe put that language in. That's just my input.

CHAIR LEE: Any other questions?

VICE-CHAIR PALTIN: I don't have a question, but I would like to make a motion to approve the amendments as suggested by Corporation Counsel [sic] Oana. And for Section 4, I would propose that in effect prior to this ordinance's enactment shall apply to a valid subdivision with preliminary subdivision approval by the Department of Works that...Public Works, within 90 days upon approval of this ordinance enactment --

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COUNCILMEMBER RAWLINS-FERNANDEZ: . . .*(inaudible)*. . .

VICE-CHAIR PALTIN: --from the effective date of this ordinance's enactment.

CHAIR LEE: So, basically, you're changing it to exempt people with...who have received preliminary subdivision approval?

VICE-CHAIR PALTIN: Or within 90 days of the effective date of this ordinance.

CHAIR LEE: Okay. I can go for that, only because then I don't have to return this to Committee.

VICE-CHAIR PALTIN: Sounds good, let's --

CHAIR LEE: Yeah --

VICE-CHAIR PALTIN: --do it.

CHAIR LEE: --it sounds really good. Now, all I need now, before anybody has comments, any more comments or questions? Okay. So, you moved to pass this...to make the amendment? Okay. Any discussion?

VICE-CHAIR PALTIN: Oh. As the movant, I think you're right, we shouldn't spend more time on it, we shouldn't send it back to Committee, we shouldn't bring it back. And, you know, we're not...we're giving folks 90 days upon the approval of this ordinance if they get...I think it's fair, you know. And I know we're all kind of sick of dealing with it. It's fair and we can't place undue burden on the rest of the taxpayers that, you know, so it gives folks time. It's a freebie for the guys that are paying attention, watching the agenda 'cause of a past mistake, and we're doing our best we can and we're moving on.

CHAIR LEE: Any other comments? Any other...yes?

COUNCILMEMBER SUGIMURA: So, I'm not a voting Member.

CHAIR LEE: Yeah. Go ahead, go ahead.

COUNCILMEMBER SUGIMURA: So, I just want to say that based upon what Public Works had said that first time she's seen this and she would like to take it back to her Department for comments that I...and hearing that the 90 days is nearly impossible to reach based upon survey and being 6 months behind, and depending how well prepared they are, that I think it would be fair, if you have to pass it today, to extend it greater than 90 days, because it sounds like 90 days is difficult to meet. So, we're going to try to help somebody because of whatever and yet the amendment is going to be difficult to actually enact within the departments who have to make this happen.

CHAIR LEE: Miss...did you want to say something?

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COUNCILMEMBER RAWLINS-FERNANDEZ: I do.

CHAIR LEE: Okay. Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Really quickly, I wanted to get clarification first from Public Works, Ms. Rowena Dagdag-Andaya. So, you said that the floor amendment, or the amendment that was proposed tonight, submitted...shall take effect upon approval that submitted a valid subdivision application within 90 days from the effective date of this ordinance. So, that is the amendment that you've just seen tonight, that we all just seen tonight. But did you see the proposed amendment, this ordinance shall not apply to subdivisions that receive preliminary approval within 90 days of the effective date of the ordinance?

MS. DAGDAG-ANDAYA: So, the version that I have in my folder is...I think this was the earlier version that was dated September 3rd, yeah, or September 3rd or September --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, that --

MS. DAGDAG-ANDAYA: --5.

COUNCILMEMBER RAWLINS-FERNANDEZ: --version has "construction plans approved" --

MS. DAGDAG-ANDAYA: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: --and not preliminary approval?

MS. DAGDAG-ANDAYA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Do you think...so, by the time that this bill is sent to Committee, it will probably be about two weeks. Do you think...sorry, from Committee to Council, to full Council for first reading, would be sufficient time for your Department to review and provide comment?

MS. DAGDAG-ANDAYA: We can review and provide comment within that time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. DAGDAG-ANDAYA: And then, Chair, I had one more thing. Can I add one more thing? Earlier tonight, there was a mention about the variance application.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, yeah.

MS. DAGDAG-ANDAYA: Can I speak a little briefly --

CHAIR LEE: Sure.

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MS. DAGDAG-ANDAYA: --on that?

COUNCILMEMBER RAWLINS-FERNANDEZ: And then I have mine.

MS. DAGDAG-ANDAYA: So, I have the variance application in front of me. And it does require, as one of the conditions of a variance, if you receive a variance, that the owner, its successors, and permitted assigns, shall indemnify and hold the County harmless from and against any loss, liability, claim, or demand arising out of the variance, and shall procure, the owner's own cost and expense, and shall maintain during the entire period of the variance, a policy or policies of comprehensive liability insurance naming the County as an additional insured. So, the insurance policy shall provide coverage in the minimum of \$1 million; provided that the Board may reduce the required coverage amount for good cause shown. So, I think there was that question raised as to whether or not, you know, they would have to have liability insurance, and they do. That was one of the conditions.

CHAIR LEE: Yeah.

MS. DAGDAG-ANDAYA: And there's also...

COUNCILMEMBER KAMA: . . .*(inaudible)*. . . waiver?

MS. DAGDAG-ANDAYA: They could, and I'm not...yeah, the Board could waive or reduce, but that's one of the requirements as part of the variance.

CHAIR LEE: Yeah, and typically, the Board of Variances and Appeals hears appeals and questions on request for leniency on...because of hardship. So, that's their purpose. So, those who don't make that window in time can go to the Board, the BVA. Now...

COUNCILMEMBER RAWLINS-FERNANDEZ: My final comment.

CHAIR LEE: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, I speak in favor of this motion. I echo and agree with the comments from Member Paltin, that I believe this is fair. There are 29 applicants in the queue. And the intention of this amendment tonight is to allow those who invested in improvements to their property, those basically in the queue, to be protected and grandfathered in, as you already stated, and to help the people. And I'm all for helping the people, especially those that actually need the help. And the intention of this bill was to limit it to only those who are on the Upcountry water meter list. And so, I think going back to that original intent without, you know, swinging the door wide open is a responsible move on our part. And, as you just mentioned, the BVA is still an option for those who don't make it in time. And so, I think, all around, this is a fair move for this Committee to make. Mahalo Chair.

CHAIR LEE: Are there any other questions or comments? Mr. Molina?

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COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I appreciate the motion on the floor, but at the same time, I am appreciative of the concerns of the Department that, you know, if we create this 90-day window, then you'll have a potentially an onslaught of applicants at the last minute. But I think the only way to go is let's just, you know, take a chance and see what happens. So, I will support although, albeit with some reservations but I'll support the proposed amendment. Thank you.

COUNCILMEMBER KAMA: Call for the question.

CHAIR LEE: Let's see. Mr. Sinenci has...Sinenci?

COUNCILMEMBER SINENCI: Yeah, I too would like to support moving this forward, Chair. Thank you.

CHAIR LEE: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR LEE: My turn.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR LEE: Okay. We're about ready to vote. See how we operate? Oh my God. I could be home watching TV and I came back into politics. All right. I too will be voting with reservations because I generally like to give people the benefit of the doubt. And I feel that we're trying to rectify a mistake and...but the main thing is that we move on and we all can't get our way for everything. So, this is a compromising action and I'm very, very appreciative of the Members and their...all their different opinions and everything. And now, I shall call for the question. All those in favor of the proposed amendment, say "aye."

COUNCILMEMBERS: Aye.

CHAIR LEE: Opposed, "nay." Motion carries. Hallelujah.

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VOTE: **AYES:** **Chair Lee, Vice-Chair Paltin, and Councilmembers, Kama, Molina, Rawlins-Fernandez, and Sinenci.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Hokama.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT.**

COUNCILMEMBER KAMA: Amen. . . .*(inaudible)*. . .

CHAIR LEE: Five-minute recess, please. Thank you. . . .*(gavel)*. . .

RECESS: **8:10 p.m.**

RECONVENE: **8:22 p.m.**

ITEM WAI-18: REIMBURSEMENT FOR SUBDIVISION WATER MAIN EXTENSION

(CC 17-242)

CHAIR LEE: . . .*(gavel)*. . . Will the Water and Infrastructure Committee reconvene. Thank you, everyone. Now this part will go by fast and smooth, yeah. And if you believe that, I want to sell you a bridge in Nahiku. All right. I will call on Wendy Taomoto to give us a quick overview of the next item, and then talk about the changes that we are proposing. Wendy?

MS. TAOMOTO: Thank you, Councilmember Lee. So, Councilmember Lee wants me to go over her proposed amendments to the proposed bill. And so, she mentioned it at the Kula Community Association meeting last week, but the 2 changes are, to increase the limit in the current proposed bill to 250,000 from the current 100,000, and to put back in the 75 reimbursement for transfer of property to family member; however, there is language in there that family subdivision has to be pursuant to Maui County Code, Chapter 18.20.280. And other than that, the only other changes are housekeeping, nonsubstantive changes. Do you...testimonies?

CHAIR LEE: Okay. Ready for testimony? Who's our first testifier?

MR. CRILE: I'm just going to call through all the names again, and come on down if you're testifying on this --

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CHAIR LEE: Okay.

MR. CRILE: --item.

CHAIR LEE: Now --

MR. CRILE: First --

CHAIR LEE: --due to --

MR. CRILE: --is...

CHAIR LEE: --the lateness of the hour, we really would like you to stick with the three minutes. Okay. Mr. Small first?

MR. CRILE: Sam Small is first, to be --

CHAIR LEE: Okay.

MR. CRILE: --followed by Baldev Singh.

. . .BEGIN PUBLIC TESTIMONY for WAI-18. . .

MR. SMALL: Thank you for the opportunity, always it's an honor. This is sort of the old way of doing things, this bill. The entire notion that a citizen should be responsible for doing this process, this waterline extension is not a reasonable process. There are vary...other ways to handle this. This is done professionally in the rest of the world through assessment districts, project districts, so that it becomes a community that a whole group of homeowners are clustered together. A consultant figures out what the costs are likely to be, and people are assessed a fee in lieu. They have an opportunity to participate. They have an opportunity to opt out. If they don't want to be a part of it, they don't have to be a part of it. I had 30 days. They offered me my water meter. I'm on the Upcountry water meter waitlist for 16 years. And one day, I got a letter. And it's like oh my God, I can get my water meter. And I went down and I talked to them, and then he's like well, you can get your water meter but there's 2,500 linear feet of service that you need to bring down to your property. And if you want to do a subdivision, you actually have to go down the...well, another 2,500 feet beyond your property, or down to the bottom of my...I have long, narrow property. So, it came out to 5,000 linear feet. I got...and I made a bunch of different phone calls to try and find an engineering firm to give me at least a ballpark estimate, and got one firm that was willing to give me a ballpark, \$1.5 million. And that would be my entire burden. There were...there's like 25 other homes that would then be able to tap into the waterline that I paid for, and I would have to go out personally and negotiate with every one of them. That is not a reasonable process for a mature County to be engaged in. And that's the old way, that's...we've got the Upcountry water meter waitlist because bad, you know, just uninformed decisions were made a long time ago,

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and we're still dealing with that today. That's the initiative. That's what Chris Salem has been hired by the Mayor to fix. The fairness bill that is being constructed today, that Gladys Baisa is consulting on, will fix all of this. We don't actually, you know, appreciate you guys, you know, trying to find a solution for this but the entire problem can be healed and done away with through other legislation that is actively being pursued today.

CHAIR LEE: Thank you, Mr. Small. Any questions? If not, thanks for coming.

MR. SMALL: Thank you.

CHAIR LEE: Next.

MR. CRILE: Next testifier is Baldev Singh, to be followed by Bernice Lu.

MR. SINGH: Thank you, Council. My name is Baldev Singh, and I own a...an 11-acre lot in Pukalani. We've been there for around 19 years, and I've been on the water list. I finally got...my name came up after 18½ years. And as you know, you have 30 days to come up with the money. When I first applied for the water meters, I asked the Water Department [sic] if they had a form to fill out, which determined how many meters I could apply for, and they said they didn't. What I should do instead is to write a letter. So, I looked at the community plan and community plan said that my lot was R3, which meant that you could take...do 10,000-square-foot lots. So, to the 11 acres, so basically, take 10 acres divided by 4, you get 40 water meters. So, at the time, the water meters were \$3,500. I asked if I need to put the money upfront, they said no, because you can't get the water meters right now so just write a letter. So, I wrote a letter saying I'd like as many as 40 water meters, and I would like to have my current 5/8 water meter upgraded to the next level. I think I asked for a one-inch meter. The problem in this...in the area that I'm in is that the elevation is not very much higher than the tank from which the water comes from. And so, the pressure at the road down below is sufficient to meet the County's requirements for water pressure. But by the time it gets up to my house, it's too low. So, I have to put in a bladder pump, which we've been dealing with for the past 8½ years. And, you know, like right now, when it's very dry, we cannot irrigate. We don't have enough water. Anyway, my name comes up, got 30 days to come up with the money and of course, I don't have the money for 40 water meters 'cause the water meter price has gone up 12,500. Also, my neighborhood is a rural neighborhood. I don't think it's appropriate for me to do 40 lots. Even if I did have the money, I wouldn't do it because it's not in keeping with the spirit of the land and the association that I have with my neighbors. So, I had to come up with some sort of compromise, and what I've come up with is to do nine lots, essentially, two acres around my house, and eight other one-acre lots. The requirements at the time that I got paid for my water meters was that the County would reimburse me 50 percent within 2 years. Now, there's a new proposal. I understand that the County, the Water Department [sic] has limited resources, and they need to be...

CHAIR LEE: Can you wrap it up, please?

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MR. SINGH: Sorry, yeah.

CHAIR LEE: Yeah.

MR. SINGH: They need to be managed efficiently. And so, the County doesn't have money but I don't have any money either. And whatever money that I come up with is going to have to be borrowed, and what money I have come up with for the water meters was essentially my own savings, that I walked into the Water Department [sic] on the 30th day at 4 o'clock and paid my money for the water meters. So, what I'm asking for is essentially some...this change to \$250...250,000 instead of a 100,000 is certainly a move in the right direction, but it goes only a limited way to helping somebody like me. I'm not a big-time developer.

CHAIR LEE: Thank you. Are there any questions? If not, thank you...oh, Ms. Paltin?

VICE-CHAIR PALTIN: I just was wondering, so the 9 lots from the 11 acres is for all your kids?

MR. SINGH: Not for all my kids. Some of it...some of them I'm going to...some of the lots I'm going have to sell in order to recoup all the expenses that I've got. I've got to bring in...I've got to widen the road, we're off a private road. So, I'll have to put in curbs and gutters, increase the size of the road, bring in a nine-inch waterline. And I had a neighbor who was also going to do a subdivision close by, and they've essentially run out of time. So, the Water Department [sic] was going to require them to do about 4...I think like 500 feet along Old Haleakala Highway. Now, that burden is going to come me.

VICE-CHAIR PALTIN: I had a other questions. So, are you a developer like a small developer? You say you're not a big developer. Are you a developer?

MR. SINGH: I don't know, you tell me what I am.

VICE-CHAIR PALTIN: No, but like your...

MR. SINGH: I've owned this property --

VICE-CHAIR PALTIN: Yeah.

MR. SINGH: --okay, for 19 years now. My wife and I and my two boys --

VICE-CHAIR PALTIN: So...

MR. SINGH: --we've lived there all this time.

VICE-CHAIR PALTIN: And you just want to subdivide it in nine, and then sell some off, and then keep some.

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MR. SINGH: I'd like to keep as much of the land as possible for my family.

VICE-CHAIR PALTIN: Okay. With the selling off of those other lands, would you not make back the money to pay for the...what you're doing? I mean...

MR. SINGH: Theoretically.

VICE-CHAIR PALTIN: Okay. Thank you.

CHAIR LEE: Other questions? Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Just a clarification. So, you requested 40 water meters?

MR. SINGH: I did not.

COUNCILMEMBER SINENCI: Oh, you did not. Okay. Did I hear you --

MR. SINGH: I --

COUNCILMEMBER SINENCI: --wrong?

MR. SINGH: --requested 9 instead of 40, which I was offered.

COUNCILMEMBER SINENCI: Oh, okay. Thank you for your clarification.

CHAIR LEE: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, the bill that was just discussed earlier, you would qualify, wouldn't he? Because he wouldn't, because he's on the water meter list. So, he would, right? He --

MR. SINGH: Yeah.

COUNCILMEMBER SUGIMURA: --would benefit probably with the --

MR. SINGH: Yes.

COUNCILMEMBER SUGIMURA: --previous bill.

MR. SINGH: Yes.

COUNCILMEMBER SUGIMURA: So, it wouldn't be as expensive as you think based upon the exemptions, but just kind of food for thought.

MR. SINGH: Okay.

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CHAIR LEE: Any other questions? Thank you.

MR. SINGH: Thank you.

CHAIR LEE: Next?

MR. CRILE: Next testifier is Bernice Lu, followed by Alan Nago.

MS. LU: I'm Bernice Lu. I am not in favor of what you are proposing even with --

MR. CRILE: Mic --

MS. LU: --the...

MR. CRILE: --mic. Can you speak a little closer?

MS. LU: I am not in favor of what you are proposing even with the \$250,000 increase. However, if this gets passed, I would like to ask you to amend C in that. All these service laterals and fire hydrant assemblies, and whatnot, all of these things are required by the Water Department [sic], why are you not reimbursing people for that? Okay. That...then I would, you know, my situation is a little different, and half of the people in this room have heard my situation but those of you who haven't, I would like to share it with you. And I have owned a property for about 40 years, and had been on the list since 2000. On November 6, 2002, we met with David Craddick, how long ago, on the possibility of subdividing. He said it was possible if we improve the waterline, and requirements for us at that time was about a 1,000 feet. And he said, well, I'm not going to require that you do it all the way because that's fair, you know, the 1,000 feet. But in doing so, in giving us that requirement, we would get no reimbursement. Okay. By the end of that year, now this was November, by the end of the year, the Administration changed, and now all the rules have changed. By then, our engineering company had already started designing the improvements, and we now have to decide whether or not we would go forward and take a chance. After working with the Department since 2002, we finally get our plans in June of 2005, two-and-a-half years later. In 2005, various government permits needed to be obtained like digging up the State Highway, that took six months. In early 2006, construction begins and completed in early 2007, about a year, then we discovered we needed to bond the job. So, in February 2008, we returned the bond and all of our improvements are accepted by the Water Department [sic], all of the improvements. When we asked for a final subdivision approval, we are told that we have to wait for our number to come up on the list. So, we wait for ten years with the thought that we had done everything we needed to do. In June 2018, we received a letter that, oh, the water meter is available to us. But now, the Code has changed, and we need to install 2,500 feet of 8-inch waterline. We tried to talk to Gladys Baisa and were told that she was in Mexico for two weeks. After two weeks, we called back again, and the Department would not allow us to talk to her. My letter went unanswered. My e-mail bounced. Getting no resolution, we now have two weeks to decide if we should just

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forfeit the improvements that were accepted by the Department back in 2008. That part of the subdivision costs us over \$200,000. The choice was either...

CHAIR LEE: Bernice, can you conclude in a minute?

MS. LU: Okay. The --

CHAIR LEE: Thank you.

MS. LU: --choice was either to forfeit all that money or go forward with the improvements. So, now, the one month was wearing down to days. We asked for an extension, they said no. We asked that since we had put the waterline in for the two meters and agreed to no reimbursement, would we get reimbursement for that part if we did all the improvements? The answer was no. Now, if you were on the Variance Board, would you have granted me a variance? Well, we were told that if you tried to go for a variance, we would fight you.

CHAIR LEE: Okay. Bernice, wait, we have a question.

MS. LU: All right.

CHAIR LEE: Ms. Paltin?

VICE-CHAIR PALTIN: I was wondering how many...like how many pieces were you turning your property into?

MS. LU: Three lots. And, you know, this new subdivision ordinance really doesn't apply to me because we have now done the agreement. But my point is that your rules are so strict, your Water Department [sic] has...your Water Director has no authority. You know, we're told from your Department, the rules are the rules, this is the law. And, you know, you're having a one-size-fit-all. We, you know, we're now having, as Mr. Small said, we are having to put in hundreds of thousands of dollars' worth of improvements because of fire protection, and we're doing it for all the other people who are just...and by the way, we're also required to hook them up.

VICE-CHAIR PALTIN: So, you support Mr. Small's proposal about making the Community Facilities --

MS. LU: Yes.

VICE-CHAIR PALTIN: --District?

MS. LU: Well, that is a fair way to do it. You know, it's fire protection for everybody. You know, I know of so many families --

VICE-CHAIR PALTIN: Thank you.

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MS. LU: --who are at this point where, you know what, we can't afford the taxes, we can't afford to subdivide, we just got to sell.

CHAIR LEE: Thank you very much. Any more questions? Thank you, Bernice.

MR. CRILE: Next --

CHAIR LEE: Next?

MR. CRILE: --testifier is Alan Nago, followed by Bob Horcajo.

CHAIR LEE: I think Alan went home.

MR. CRILE: Bob Horcajo --

CHAIR LEE: Yeah.

MR. CRILE: --followed by Jack Patnode.

MR. HORCAJO: Okay.

CHAIR LEE: Bob?

MR. HORCAJO: Yes, thank you very much. I'll be quick. I guess when you mentioned two, your two proposed changes, 1 for 250 and the other, just for clarification, I guess I'm assuming you're talking about when you're referring to Subdivision Code, Chapter 18, that has more to do with the family where...I mean as to who you can convey it to, right, and not so much the Code itself, which is more about deferment of the improvements. Is that correct? Okay. I'm sorry.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . . but you should finish your testimony --

MR. HORCAJO: Okay.

UNIDENTIFIED SPEAKER: --. . .*(inaudible)*. . . like...

MR. HORCAJO: Okay. I guess my main issue as I mentioned in my letters maybe was the cap. I just still don't understand it. You know, I mean historically, it's been 50 percent of improvements, laterals, standpipes, hydrants, even I believe water storage. I'm not sure about that part. But for me like what's happening with the Lu's, and I've mentioned if I'm doing a affordable housing project, am I going to be stuck with that limit whether it be a 100 or 250,000? That really doesn't make any sense to me that there should be a cap. Because at some point in time, somebody is going to get burnt majorly, and I mean somebody meaning public, whether it be affordable housing project. I mean Kihei wouldn't be here without...with that kind of cap. That line from Central Maui to South Maui would not happen with that kind of cap. So, and there's going to be a project that's going to, you know, in the future, that's going

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to...that's kind of...just make it impossible. Now, this may be...this is for a different topic, but I remember when the Board of Water Supply was semiautonomous, the Board made decisions on water rates, on hiring/firing the Director. Now, I know it changed around 2002, and for me, being semiautonomous, the Board was not...I mean there was less politics involved in, for example, raising rates. 'Cause the Board right now, if the Water Department [sic] asks for a raise, then for decades, they have a hard time doing it because the body, the Councilmembers don't want to do it 'cause they don't want to lose votes. So, maybe that's part of the issue with budgeting is because they're self-supporting, they don't have enough money. But when I heard Wendy at the Kula meeting suggest that this started...that the cap started at \$25,000, that just doesn't make any sense to me out of the past Director. So, that's my main point. I don't really understand the caveat and why that's happening, why that's needed. Thank you.

CHAIR LEE: Thank you, Bob. Any questions? Ms. Paltin?

VICE-CHAIR PALTIN: I just was wondering if you're also supportive of the CFD idea?

MR. HORCAJO: No, I think it's great.

VICE-CHAIR PALTIN: Okay. Cool. Thank you.

MR. HORCAJO: Yeah.

COUNCILMEMBER SUGIMURA: I have a question . . .*(inaudible)* . . .

CHAIR LEE: Oh, Bob, could you wait?

COUNCILMEMBER SUGIMURA: Thank you, Mr. Horcajo. So, if the 100,000 to the 250, you said you have concerns about. So, what is the amount, is there --

MR. HORCAJO: Well, I would --

COUNCILMEMBER SUGIMURA: --an amount?

MR. HORCAJO: --rather just stay the same at...it's a percentage of the water main extension cost for regular subdivisions. And I just heard that it's going to be maybe kept the same at 75 for subdivisions being conveyed to families.

COUNCILMEMBER SUGIMURA: So, you're saying 75 percent --

MR. HORCAJO: No, no, no.

COUNCILMEMBER SUGIMURA: --without --

MR. HORCAJO: Well --

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COUNCILMEMBER SUGIMURA: --the cap?

MR. HORCAJO: --for families...right.

COUNCILMEMBER SUGIMURA: Oh, the --

MR. HORCAJO: The existing --

COUNCILMEMBER SUGIMURA: --75 percent . . . *(inaudible)*. . .

MR. HORCAJO: --law now is basically 50 or 75 for subdivisions with lots being sold to families. I'm just...my suggestion is you keep it. Having a, some cap with no rhyme or reason why the cap is there, you know, other than say it's an average, you know, for me, that's not good governance.

COUNCILMEMBER SUGIMURA: Thank you.

MR. HORCAJO: Thank you.

CHAIR LEE: Mr. Molina?

COUNCILMEMBER MOLINA: Yeah, Mr. Horcajo, just to respond to your comments about the Water...Board of Water Supply and their powers being reduced, that was due to a Charter amendment I believe. So, it wasn't, you know, done by a Council or whatever. So --

MR. HORCAJO: Right.

COUNCILMEMBER MOLINA: --if it's something you would like to see changed back to maybe make the Board semiautonomous again, then, you know, you're free to propose a Charter amendment if any Councilmember would want to do that to have that considered. So, just as an FYI, if you feel the Board has lost too much authority, if you would like to have that authority reinstated in the future, then the venue would be through a Charter amendment proposal.

MR. HORCAJO: Yes. Thank you.

COUNCILMEMBER MOLINA: Thank you.

MR. HORCAJO: Again, I'm sorry, I'm just trying to be sure that the Water Department *[sic]* has enough funds by which to operate. I mean I would rather have that the...I think Brendan Balthazar brought it up at the first reading, is that the Water Department *[sic]* is like any other department, you know, basically, money goes in General Fund, and they come to you whether it be the Fire Department or Water Department *[sic]*, or, you know, any department looking for money 'cause really, it's a utility, right. It's like if people don't have electric for a day, they start screaming. Same thing with water, but they're struggling trying to find funds because they're kind

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of have to deal with being self-supporting with just a lot of it is from the water rates. So, if that's the cause for this cap, then if it is, then I can see why, but it still doesn't make any sense to me.

CHAIR LEE: Thank you, Bob.

MR. HORCAJO: Thank you.

CHAIR LEE: Next?

MR. CRILE: Next testifier is Jack Patnode, followed by Sherman Dudley DePonte.

MR. PATNODE: Hello. My name is Jack Patnode. I live on Crater Road in Kula. I first would like to thank the Council for doing the meeting up here Upcountry and particularly the Chair for her brave presentation at the KCA, when she talked about water. It's very hard for anybody to do. I have several issues with the proposed changes. Concerning Section D, number 1, concerning the need to approve estimates, the County requires individuals to contract for the engineering and actual work. Who gets to approve their estimates and what...and what's the criteria that those approvals are based on? I think this needs to be cleared up. I don't think...you told me to do the work, you told me this is what needs to be done, I come back with you with what it costs, so then you get to decide whether that's good or bad. Isn't...something needs to be cleared up in that language. Concerning the need for a five-year payback, the County knows how much the work will cost and about when it will be completed. Please just budget the expense and pay it right away. You know, when this work is going to happen, the Water Department [sic] approved it, they know what it's going to cost, put it in the budget, pay people back. Concerning the dollar limits for reimbursements, the County Department of Water Supply is supposed to be a utility but they do not provide all the water that people want, where it is needed. So, the County has created a method where individuals who need service have to pay a portion themselves. The limit had been 50 percent of any amount with no dollar limit. For customers on the list, I would ask the County to not have a dollar limit. For families and subdivisions, I would ask the percentage be increased to 75 percent. I would also include a ten-year deed restriction on the subdivision to make sure the property stays in the family. One other item, there's no mention of what happens when a customer is just requesting a water meter size upgrade. Is this treated like a subdivision? Should there be language in there covering what happens when there is an upgrade? That's all I want. I just want a bigger meter. Finally, the costs are huge. If the costs are huge, it's because major improvements have not been done. People have been on the list a long time. Now is not the time for rule changing. If changes are necessary for customers not on the list, stop providing subsidies to non-family subdivisions. Let property developer...property developers cover their own costs. Thanks.

CHAIR LEE: Thank you. No questions. Thanks.

MR. CRILE: Next testifier is Sherman Dudley DePonte, followed by Shelley Maddigan.

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MR. DePONTE: I see Rawlins smiling. I bought four musubis from them, spam and egg was good, you can tell. Anyway, my name is Sherman Dudley DePonte. I'm here on the water, on the water issue of course. First off, what we're doing and what we're dealing with is County-owned water transmission lines. It's County-owned water transmission lines. So, putting a cap on something...on that as far as how much we're going to do is just...it's hindering how much more we can do as a County. 'Cause as a County, if we have half-paid for, why not take that? We did a line from Waihee all the way to Wailea and Makena. That line was a joint venture. It was County and the other two. In any case, without the benefit of having the County come in and do their own line also, we wouldn't have too much of Kihei, Makena, and the water that we have. In any case, a study was done for the water, how much reimbursement was done. And when I looked at it, you know, it's from 2009 to 2018, only 1.2 million was reimbursed. Okay. And in the time that the...in 2014, only 101,000 was reimbursed, and that's when the water meters started to be available. And that's all. Now, we're going down the list, and it gets, you know, 115, 108, and we come up to 1.2. Every year it's--now I've been corrected--it's 500,000 I think it is for what is appropriated for the...this. Okay, 5...so, I figure 500,000. So, with that 500,000, we figure 9 years that's 4.5 million plus \$860,000 that the County Council put forth to improve a line up on Haleakala Acres, where I live, which is a County community. That number when I take...well over 5 million, 1.2, we got 3.8 million right now sitting someplace for reimbursement. And we're talking about a \$250,000 cap or a \$100,000 cap? That's not fair. It's not fair for the public. And I hope you, Councilmembers, can reach deep and start seeing this. We, the community, are working with you. If we...we had 50 percent and was doing it. A lot of people cannot afford that. So, we gave them a break, the Council did, and made it 75 percent for the people that's doing family subdivisions. That was fair. It is fair. Fifty percent is fair. A cap on it is not fair, really not fair. So, I'm asking you and basically, look into your hearts and see how is our community going to improve up here Upcountry without the help of...that infrastructure is not going to happen with leaning on the Water Department [sic]. It's got to happen with the community, and that's how we got the water to Kula in the first place. One more, the thing I wanted to make clear here too is we, as Upcountry and Upcountry people, have been hindered from doing subdivision, from doing...given to our family. And it goes so far that it's like they're stopping us from doing something that we're zoned for. We're not asking for a new zoning. All we're asking for is what we paid our taxes for. I went in '92 till now, it's the same zoning. I'm not asking to change, and the infrastructure is there. But in any case...

CHAIR LEE: Okay. We need you to conclude but you...just so happens, somebody is going to ask you a question.

MR. DePONTE: Okay.

CHAIR LEE: Ms. Paltin?

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VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. DePonte, for coming. I just had a couple questions due to your expertise. It sounds like you dealt with this a lot. What...do you have a opinion on Mr. Small's CFD, Community Facilities District idea?

MR. DePONTE: I didn't quite listen to him, what he had and if you can explain...

CHAIR LEE: Yeah, if I could say, it's like a special improvement district --

MR. DePONTE: Yeah.

CHAIR LEE: --except it's actually a better tool.

VICE-CHAIR PALTIN: Like instead of there being a cap and all that, everybody, like his place, he said 25 people could hook up to the...what he puts in. So, it would be like the cost of it would be split between 26 folks, the 25 extra ones that can tap into his line plus him. So, whoever is going to be a lateral extension off of it, they're all going to share the costs.

MR. DePONTE: That's --

VICE-CHAIR PALTIN: Not --

MR. DePONTE: --good.

VICE-CHAIR PALTIN: --just one...

MR. DePONTE: Yeah, I understand. I understand what you said. I've heard it before.

VICE-CHAIR PALTIN: CFD --

MR. DePONTE: That it --

VICE-CHAIR PALTIN: --stands --

MR. DePONTE: --is...

VICE-CHAIR PALTIN: --for Community Facilities District.

MR. DePONTE: Yes, it's...the community...that community put in a proportion, everyone get their own little proportion that they put in so that they can get the line, and also, the County.

UNIDENTIFIED SPEAKER: Yeah.

MR. DePONTE: You know, if it's going to be 5 million, okay, we get 4 million from the County, you might have to put 1 million under that, but we share it. The problem is we're doing transmission lines, and we're talking transmission lines. What you heard

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from this other testifier, Bernice Lu, is that the transmission line is the one that we're paying...you're...you know, it's cut out that the County will only pay half of the transmission line, the laterals, the fire hydrants, the...whatever you have, valves, anything else that's going to attach to this thing is not covered by that 50 percent.

CHAIR LEE: Okay. Thank you --

MR. DePONTE: Yeah.

CHAIR LEE: --Dudley.

VICE-CHAIR PALTIN: And then the other question, how you felt about Mr. Patnode's, one of his suggestions was the no...I think it was no reimbursement for non-family subdivisions?

MR. DePONTE: We had the 50 percent on it. And again, you have something like Goodfellows' subdivision over here, Kualono, and I think it's 50 percent. Fifty percent is nice compared to nothing. I mean now they got the subdivision in, people can afford a house, they...he gave it to his, you know, the workers first. It also benefit the guys below. It's something that it's a win-win situation. To put a cap on a win-win situation, I feel is very...it's wrong. It's just so wrong for us to do that.

CHAIR LEE: Thank you --

MR. DePONTE: I --

CHAIR LEE: --Dudley.

MR. DePONTE: --have one more thing to say about that stuff. The lady that was right here --

UNIDENTIFIED SPEAKER: Rowena --

MR. DePONTE: --the --

UNIDENTIFIED SPEAKER: --Dagdag.

MR. DePONTE: --that Public Works, she was right on. She was saying it just like how it is. It takes six months, sometimes a year to put them...to get the application in, to complete that whole application for the thing, and it's really tough to get it so that everything on that application is covered. 'Cause if it's not covered, it gets thrown back to us, we have to go through the process again of getting it...get to it, so just wanted to say thank you to her, she was right on it.

CHAIR LEE: Thank you.

MR. DePONTE: Thank you, Alice.

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CHAIR LEE: Okay. Next?

MR. CRILE: Next testifier is Shelley Maddigan, followed by Mike Spalding.

MS. MADDIGAN: Good evening, Council. Thank you so much for coming Upcountry. I will try not to repeat myself from the Kula community meeting. So, I do want to say thank you, Alice, for the suggestion of working towards some sort of way to figure this out so that we can get our upgrades on our lines and to get the lines. Kula was, as you said, originally performing. And the thing is just that the County made subdivisions but they didn't provide the water. Now, the letter I received is that you're willing to, after I make hundreds of thousands of dollars of improvement to get everyone waterlines on Crater Road, then you get a six-inch line, which still doesn't help us at all for fire protection, because we really need an eight-inch line. It's just the way things are moving these days, then why build backwards? The other thing is that I now will lose my possible upgrade because there's no way I can possibly within I think I have another 20 days to respond and give you my deposits, which are nonrefundable, I'm not a subdivider. I'm just trying to get water protection and get a larger line so that when I want to build an ohana, I will be able to. So, the letters that are being sent out, offering us our waterline are a total joke, and they're ridiculous because maybe some people who are doing a larger subdivision can afford these things but I can't throw \$8,000 away that maybe in five years we'll get some assistance and something will happen. So, I'm going to be like Ms. Carvalho and her family, and just get wiped off the list altogether. So, I just wanted to share how upsetting it is for people who live in an area that is so poorly served. And I would embrace some sort of ideas so that we could do...Mr. Small idea is good but we need the Water Department [sic] and the County to help out as well. Thank you.

CHAIR LEE: Thank you. Thank you. Are there any questions? Ms. --

VICE-CHAIR PALTIN: I just --

CHAIR LEE: --Paltin?

VICE-CHAIR PALTIN: --was wondering, are you...how much you're subdividing into?

MS. MADDIGAN: I'm not. I'm just asking for a larger line upgrade. I have 5/8. For fire protection, you need 3/4. But I need to improve 700 feet of 2½-inch line to a 6½-inch line --

VICE-CHAIR PALTIN: Oh --

MS. MADDIGAN: --is --

VICE-CHAIR PALTIN: --okay.

MS. MADDIGAN: --what is being requested of me in order to get a larger ____.

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VICE-CHAIR PALTIN: Okay. I guess I totally missed that part. Thanks.

MS. MADDIGAN: And nobody...I mean a few years ago, you were offering in a lot of areas that you can buy extra fixture counts. Well, we cannot get extra fixture counts on Crater Road 'cause we don't have enough water.

CHAIR LEE: Thank you. And I'm sure a lot of us sympathize with your situation, and I would really like to ask Wendy, the engineer, if there are alternatives available to our testifier?

MS. TAOMOTO: Thank you. The Council passed in our 20, I believe 16 ordinance a way for these people Upcountry, in particular, to build that ohana, and it was through the additional fixture in our maintenance fees where you can buy it for 5/8-inch up to 8 individual. You can come in and buy what you need, and then for a 3/4-inch, you can buy up to 14 additional fixtures. The situation for this person testifier is that the existing two-and-a-half-inch is undersized and at capacity. So, any additional fixtures even one is at detriment to her...our existing customers, and as such, that they cannot take advantage of that ordinance, because any additional services is at a detriment to existing customers. So, you can only take advantage of that if you have...we have the capacity to serve. But the Upcountry system was not built for these subdivisions. It was basically built for those farm dwellings and originally, and that is primarily the problem.

CHAIR LEE: Do you have neighbors in your same predicament?

MS. MADDIGAN: Oh yeah, I wasn't even referring to myself. It was one of my neighbors who was requesting to purchase additional fixtures. But I mean we're all in that mess up there, right around Dudley. It's a subdivision that nobody wants to deal with. The last Administration, there were a lot of sarcastic things said about getting water up Crater Road. So, there's been a lot of resistance because nobody should be living up there I guess. So, they really shouldn't have created the subdivision if they don't want to start supplying. And it's a great place to have extra water sitting in case we get a tsunami, you know. You never know. And we should be able to at least protect our homes and have the proper waterline, all Upcountry should. So --

CHAIR LEE: Well, we --

MS. MADDIGAN: --please be creative.

CHAIR LEE: --probably can't help you right away, but this Committee will be looking at alternate financing mechanisms like the CFD --

MS. MADDIGAN: Thank you.

CHAIR LEE: --and perhaps something else and hopefully at some point you can benefit from it.

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MS. MADDIGAN: Yes. Well, because I'll lose my line, my place in line now. Thank you.

CHAIR LEE: Thank you.

MR. CRILE: Next testifier is Mike Spalding, to be followed by Leilani Carvalho.

MR. SPALDING: Greeting, Councilmembers. Thank you for taking so much of your personal time. I think you guys should get paid by the hour for all the time you put in to these evening meetings. I'm going to speak towards the bill that Wendy has drafted. I think it's outstanding. It addresses an issue that's important to all of you and the people Upcountry, about family subdivisions, and there's a lot of us that have family that want to be able to transfer our property to our next generation. And I think that what she has proposed, you know, in this ordinance, covers a lot of the important issues. I would encourage increasing the limit. And I just want to make one other point, I think when you encourage people to participate in doing the off-sites, you get the County off of having to procure the money and do the project at, you know, Bacon [sic] wages, and you can get it done more efficiently and cheaper if you have a private sector doing these improvements. And I think the County is giving us incentive to do that by doing the 50 percent reimbursement; and in the family subdivision, a 75 percent reimbursement. So, you know, I think, you know, Wendy, I've worked with her for many years. She's outstanding. She does a great job, and I think she's very carefully crafted this so I support it wholeheartedly. Thank you very much for your service to the community.

CHAIR LEE: Thank you. Are there any questions? If not, thanks.

MR. SPALDING: Okay.

MR. CRILE: The next testifier is Leilani Carvalho.

CHAIR LEE: Wendy, you have one fan in the audience.

MR. CRILE: No further testifiers signed up at this time.

CHAIR LEE: Are we done?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR LEE: Anybody else feel an urge to share your feelings tonight. I want some good testimony, some positive testimony. Anybody with ideas, how's that? Ideas or solutions? Well, it sounds like we have a lot work to do in helping to come up with some funding ideas to help people with shared cost mechanisms and folks, so forth, and really be...this Committee will be working on that shortly.

UNIDENTIFIED SPEAKER: . . .(inaudible). . .

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CHAIR LEE: Yeah, I saw him. Could you state your name again please for the record?

MR. SINGH: Baldev Singh. Only comment, I was a little overwhelmed with my earlier testimony and I forgot to mention one thing, the addition in the current bill, the proposed bill, is to exclude laterals and additional fire hydrants to the 50 percent, is...am I right?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MR. SINGH: Okay. I think that makes it very onerous on whoever it is that has to bring in the line. I think the 50 percent ought to include the laterals with the Water Department's *[sic]* participation.

CHAIR LEE: Okay.

MR. SINGH: Thank you.

CHAIR LEE: Thank you. Are there any questions? Pardon?

UNIDENTIFIED SPEAKER: Ask Wendy to clarify . . .*(inaudible)*. . .

CHAIR LEE: Wendy, would you like to clarify? Okay. Clarify the testifier's concerns?

MS. TAOMOTO: The existing language in the existing County Code doesn't address laterals, fire hydrant tees, fire hydrant laterals, but we have historically not ever reimbursed for fire hydrant tees, laterals, and water service laterals. So, the proposal in front of the Council is to clarify what we're already been doing forever. It's just...it's already written in all the waterline reimbursement agreements, Corporation Counsel. So, all we're doing is clarify that that is our policy, and we're putting our policy in the current Code to make the clarification. We could have done it through administrative rules, but since we're...we have a bill in front of you, we did it through a...this bill. Thank you.

CHAIR LEE: Also, could you...do you have anything to add to any of...anybody who testified? Three minutes. Just kidding.

MS. TAOMOTO: Not really. The 250,000 cap, 100,000 cap, I mean the Department's position is not a personal position. It's the facts that when we were asked by the Council what the average reimbursement was for the past...from this year to that year, we provided that information. We didn't generate the question. The Council generated the question and we provided the honest answer. And from that floor, amendment was made under the previous Administration, previous Council, for the \$100,000 cap. 'Cause originally before I was involved, it was a \$25,000 cap. And so, it has nothing to do with the personal opinions of anybody. It was a reaction to a Council question as to what was the previous 5 year or 10 years of reimbursements made to subdividers, and that's how the 100,000 was just an...the average. And so, like I opened up with Councilmember Lee is proposing to increase that from what we provided to our

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response on the historical to a \$250,000 cap. So, other than that, I did want to make one clarification as, you know, everybody is confused about the five years, yeah?

UNIDENTIFIED SPEAKER: Five years.

MS. TAOMOTO: It...they seemed to be confused. So, the five years in the current law, the current law reads that if there's no substantial improvements or the construction is not--let me read it--yeah, if the agreement is not substantially complied with, which means generally speaking, you would need to be in construction within one year, a lot of people had stated that might not be reasonable. So, the proposal we put it front of the Council was to increase to allow five years to be substantially complied with. Now, if this ordinance doesn't pass, you know, our intention is to administrate that one year, which means if you execute this agreement and not...have not substantially complied with the terms of the agreement, in one year, there will be a question to terminate the agreement. So, this gives you an additional five years. So, I would, if I was the public, not object to the five-year provision that we're adding 'cause it actually would...is meant to help them provide additional four years to be in substantial compliance with the terms of the agreement. But that would be up to them.

CHAIR LEE: Thank you. So, that everybody understand what she said?

UNIDENTIFIED SPEAKER (*from the audience*): It was the repayment in five years that wasn't . . . (*inaudible*). . .

CHAIR LEE: The repayment in five years was the difficulty.

MS. TAOMOTO: So, the Maui County Code as it currently exists is a 50 percent reimbursement for non-family subdivisions or we call it regular subdivisions. Payment is 50 percent and is made in 5 equal installments over 5 years. That is not proposed to be changed in the current proposal by Councilmember Lee. It...as the only change will be the \$250,000 cap. So, for regular subdivisions, reimbursement will be 50 percent made in 5 equal annual installments up to \$250,000. The current proposal by Councilmember Lee, amendment to the proposed bill is for family subdivisions that are processed or under Maui County Code 18.20.280, the reimbursement shall be 75 percent made in 2 equal installments over 2 years; however, there is provisions that we have in here that says, if upon the first payment, when we make that payment in the fiscal year that construction was complete...project was accepted, that you have violated that family transfer, and you transferred it outside of the family, the reimbursement shall revert back to the regular subdivision reimbursement of 50 percent over 5 equal installments. Then to protect the Department again, if on the second year, second year payment at the end of that fiscal year, which is June 30th, you failed to demonstrate, you've kept it in the family, all the subdivision lots and again failed to keep it in family, the reimbursement will be...the first payment will be considered the final payment and no further reimbursement shall be made, because you've now transferred it out of the family where you...only reason you would get the first reimbursement at a 37.5 percent rate

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versus a regular subdivision at, you know, 20 percent rate, is because you said you're going to keep it in the family and you didn't. So, there is a slight I would say penalty.

CHAIR LEE: Yes?

UNIDENTIFIED SPEAKER *(from the audience)*: . . .*(inaudible)*. . .

CHAIR LEE: You know, easier if you came up to the mic so we can get you on the mic. And then...okay. After the lady asks her question, I'll call you, okay.

MS. AGENA: So, yeah, I'm Dale Agena. And my question was, so, after the two years, after you get the reimbursement, then if you want to sell it to outside of the family, would you be able to do that?

MS. TAOMOTO: Yes.

MS. AGENA: Okay. Thank you.

. . .END OF PUBLIC TESTIMONY for WAI-18. . .

CHAIR LEE: Yeah, we're not trying to encourage, you know, overnight speculation. Just trying to keep it in the family. Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: I just had a question for the Deputy Director [sic]. So . . .*(inaudible)*. . . is it, is that you, are you? No, for Wendy, sorry. So, is, does DWS have a cap for the reimbursements? I thought there was a cap.

MS. TAOMOTO: So, the current Maui County Code provisions does not have a cap for either the regular or the family. The proposed bill has the cap at a 100,000 for both regular and family, and Councilmember Lee's amendment to the proposed bill is to increase that cap to 250,000.

COUNCILMEMBER SINENCI: Oh, no, my question was does the Department have an overall cap for all of the reimbursements? I thought there was.

MS. TAOMOTO: I think I understand your question. The budget we submit annually provides for reimbursements up to \$500,000 as we propose to Council, and that has been traditionally accepted and not modified by the Council when they approve our annual budget, Operations Budget. We've...if we were to have to reimburse the total in excess of the 500,000, we would have to look at our...I believe it's a B Account, yeah?

MS. OANA: . . .*(inaudible)*. . .

MS. TAOMOTO: It's A Account I think.

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CHAIR LEE: Actually, the answer is no.

MS. TAOMOTO: Yeah.

CHAIR LEE: There's no cap.

MS. TAOMOTO: There is no cap. We'd have to do a Budget amendment --

CHAIR LEE: Yeah.

MS. TAOMOTO: --potentially.

CHAIR LEE: Any other questions?

COUNCILMEMBER SUGIMURA: I have.

CHAIR LEE: Yeah, Yuki Sugimura?

COUNCILMEMBER SUGIMURA: Thank you for letting me ask this question. So, I think I've heard Bernice Lu's testimony now several times, and are you saying, Department, that that situation is unique number one, and then will the Lu family receive any benefit besides the...if this passes, up to \$250,000 cap, well, what happens... 'cause it sounds like their family has spent excessive amount based upon you're saying that the average is your 100,000 payout. So, question is, the Lu family example, is that unique?

UNIDENTIFIED SPEAKER: Bernice Lu.

COUNCILMEMBER SUGIMURA: Lu, I'm...

UNIDENTIFIED SPEAKER: Bernice Lu.

MS. TAOMOTO: So, I thought you said new family.

COUNCILMEMBER SUGIMURA: Oh no, no.

MS. TAOMOTO: The Lu's family, the reason why they put it in in 2002 was they put in the subdivision improvements before the meter offer. That is unique. We rarely have a subdivider put in improvements before the meter offer is made. Because the rules are clearly made by the County Council that on the Upcountry water meter list, and how we administrate that list, that the requirements for the subdivision is the requirements at the time the meter is offered. So, that's a County Council past rule with the Administration at that time. There's no getting around that. So, what happened is they put it in before the meter offer. And so, when the meter was offered, they had to comply with the current provisions of the Upcountry water meter list provisions, which says the rules for the subdivision requirements is the rules in effect at the time the meter is offered. So, and again, I wanted to just touch upon the

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discretion that one of the testifiers alluded to. He would like the Director to have--oh, that was Bernice, I believe Lu--that the Director does not have the option to use discretion, and that is 100 percent true. When the rule is clear, black and white to us, and our attorney, the Director does not have discretion to change that rule. You are...the process is outlined in the rules that the applicant may appeal the Director's decision, which is based on the County Code to the Board of Water Supply. But the Director and the staff, where there is clearly no discretion, and Director...former Director Baisa knows this, we do not use our discretion and get ourselves into trouble. We have to say this is the requirement, and we're administrating the County Code because it's fairly black and white to us, and the applicant does have the right to appeal that decision to the Board of Water Supply. So, I want to clarify that because it sounded like people think we should be using discretion, which we totally are against. Thank you.

CHAIR LEE: Okay. Any final questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: We're running out of tape. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, we're running out of tape, okay.

CHAIR LEE: Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Ms. Taomoto, mahalo for responding to all of our questions. So, my question...my first question is regarding one of the testifiers spoke to the fact that in nine years, only \$1.8 million was reimbursed. So, how many reimbursements were over \$250,000? Do you have that information with you tonight?

MS. TAOMOTO: So, based on what we...they're referring to is actually from 2009 to 2018 --

UNIDENTIFIED SPEAKER: Eighteen.

MS. TAOMOTO: --is what we provided in our --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MS. TAOMOTO: --August 6, 2018 response. There was no total reimbursements I see that were in...was in excess of 250,000.

CHAIR LEE: There was 1 at 300-something, but that's not...neither here or there.

MS. TAOMOTO: I mean sorry, sorry. I'm sorry, I'm reading the wrong column--even with my glasses--sorry. Thank you, Councilmember Lee. The total reimbursement, there was 1 in 2010 that was 363,000 and change, and that is it. Thank you. And then I do have a update of potential reimbursements for the year 2020, and we're looking at

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that, and the only reimbursement I have on this list anticipated over 250 is the Lu's reimbursement at 576,000. All the others are under 250,000 total payment.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. TAOMOTO: Potential subdivisions to be reimbursed.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, what Member Sugimura said is kind of true then like they're, the Lu's family is a little unique in the sense that it's a lot more than the average reimbursement total?

MS. TAOMOTO: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. In the bill that we have with the proposed amendments, so, originally, there was a 75 percent for the family subdivision, 75 percent reimbursement without a cap?

MS. TAOMOTO: The current Maui County Code has a...for family subdivision, well not family, transfer to persons specified the 75 percent with no cap, correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, is that under...is that supposed to be under Section C?

MS. TAOMOTO: The cap?

COUNCILMEMBER RAWLINS-FERNANDEZ: No, the 75 percent, 'cause I don't see it anywhere. So, my question is, was it stricken, was it removed? Not the cap, the 75 percent. 'Cause I only see 50 percent, the reimbursement.

MS. TAOMOTO: In the version you're looking at, is your version...I think what you're seeing is in the version you're looking at, which is a July version, what is the date on your transmittal?

VICE-CHAIR PALTIN: They just handed out. Right over here.

MS. TAOMOTO: Sorry. Thank you. The 75 percent is referenced on the bottom, in the second to the last sentence.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I have an old one then. Okay. So, it is in Section C?

MS. TAOMOTO: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And that has a cap? Okay. And both 50 and the 75 percent would have a \$250,000 cap?

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MS. TAOMOTO: In the current proposal from Councilmember Lee, yes, 250,000 cap for both the 50 and 75 percent.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. For the...

CHAIR LEE: However, as the Budget Chair of the County Council, you could raise that if you...in your discretion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then last two questions. I don't know if you have the information with you tonight, but do you know how much money was supplemented to the Water Department's [sic] budget from General Fund this year? I know there was some testimony about, you know, being self-autonomous and self-funding, but I know that we supplemented from...with General Funds this year.

CHAIR LEE: It's right there.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MS. TAOMOTO: I believe --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, you don't know that.

MS. TAOMOTO: --the answer is --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. TAOMOTO: --no and I believe we provide funding to the General Fund for general services like Corporation Counsel Risk Management and Administration. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Okay. So, this bill is such a headache, yeah? It sounds like, you know, from the community that we should just move quickly on, you know, setting up the CFDs, which I fully support and all in support of working on and getting through Council as quickly as possible. Mahalo, Chair.

CHAIR LEE: And then I think Ms. Paltin...meanwhile, we'll hear from Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Sugimura. So...

CHAIR LEE: And let's wrap it up, folks.

COUNCILMEMBER SUGIMURA: Okay. So, just one last...I just want to say this that I...hearing all the average amount of reimbursement and the Lu family, I just want to say that I think there's something really unusually unfair, and that why is it that they have to pay exorbitant amount and we're led to believe why they paid was I thought that they had to before the water meter, it sounds like from testimony. So, there seems like some miscommunication. I just...it sounds like that. But I would like to

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maybe ask the Department to maybe talk to me after so I can figure out what the discrepancy are and why.

CHAIR LEE: Okay. Heading down the home stretch, Ms. Paltin?

VICE-CHAIR PALTIN: Thank you. So, I just had a question 'cause like the first time when you presented it to us in the Chambers, you were saying like control costs and like that, and I was wondering if, you know, it seemed like a lot of folks were for that CFD, and what you would think about just leaving it like it is, like how some people want it to be, and then implement the CFD instead of these caps and stuff like that?

MS. TAOMOTO: I don't have generally a personal opinion about the cap. I'm just stating the facts that our average when I was asked...we were asked about establishing a cap, what would be the basis of it, and the average was based on an average. That was what we provided, and that was what was...is presented in the current version of the bill. The only caution I see is there is some housekeeping items that I was hoping that we would make. But if not, we'll implement...I mean we are more than capable obviously of implementing the current ordinance as is, as we have been with not reimbursing laterals and hydrants and stuff. Nothing will change. We will just proceed as status quo. I don't think there's any issue with moving forward with that if that's your concern.

VICE-CHAIR PALTIN: Okay. And do you think we have the capability to do the CFD within the next year?

CHAIR LEE: That's not her --

MS. TAOMOTO: That's --

CHAIR LEE: --job --

MS. TAOMOTO: --not for me.

CHAIR LEE: --. . .*(inaudible)*. . .

MS. TAOMOTO: Yeah. It wouldn't be really tied to the Water.

VICE-CHAIR PALTIN: Okay. Okay. Thank you. Thank you.

MS. TAOMOTO: Thank you.

COUNCILMEMBER SUGIMURA: Can I ask her something, Ms. Lee?

CHAIR LEE: Okay, but hurry up.

COUNCILMEMBER SUGIMURA: So, the CFD, Community Facilities District, is a specific district that's created by the community, and the infrastructure then gets paid for with

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a bond from the County of Maui. So, you got to float the County bond, the County Council has to approve that amount and its action, and the repayment of the dollar amount gets repaid from the people in this district, Community Facilities District, through your real property tax. So, it's a little bit more complicated, it...than maybe that we're alluding to right now. So, when this does come up with Committee, it is something that there is a lot more steps than just saying this can be done, but it's a County bond and then a County infrastructure that gets bonded. So, it has to be something that the County owns, right?

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER SUGIMURA: So, it's a little bit more complicated than let's just do this today. I just wanted to say that so we don't mislead people.

CHAIR LEE: Any other questions? Okay. If not, if there are no objections, the Chair would like to --

COUNCILMEMBER SUGIMURA: Defer.

CHAIR LEE: --throw something at you...no, the Chair would like to defer this item.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: RH)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR LEE: Okay. Thank you. Thank you. Thank you, everybody, for coming tonight.

COUNCILMEMBER SUGIMURA: Thank you, Alice.

CHAIR LEE: I really appreciate it. We heard you. We're going to try our best to see whatever we can do to make things a little bit better. Aloha, everybody. Thank you. Good night. . . .(gavel). . .

ADJOURN: 9:29 p.m.

APPROVED


ALICE L. LEE, Chair
Water and Infrastructure Committee

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CERTIFICATE

I, Ann Carmel Q. Pugh, 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 9th day of October, 2019, in Kihei, Hawaii

A handwritten signature in black ink, appearing to read 'A. C. Pugh', is written over a horizontal line.

Ann Carmel Q. Pugh