

AGRICULTURE AND PUBLIC TRUST COMMITTEE
Council of the County of Maui

MINUTES

May 31, 2022

Online Only via BlueJeans

CONVENE: 1:32 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Shane M. Sinenci, Chair
Councilmember Gabe Johnson, Vice-Chair
Councilmember Kelly Takaya King, Member
Councilmember Alice L. Lee, Member
Councilmember Michael J. Molina, Member
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member

STAFF:

Alison Stewart, Legislative Analyst
Kasie Apo Takayama, Legislative Analyst
Yvette Bouthillier, Committee Secretary
Maria Leon, Committee Secretary
Richard Mitchell, Legislative Attorney
Jean Pokipala, Council Services Assistant Clerk

Dawn Lono, Executive Assistant to Councilmember Shane M. Sinenci
Gina Young, Executive Assistant to Councilmember Shane M. Sinenci
Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson
Roxanne Morita, Executive Assistant to Councilmember Gabe Johnson
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King
Axel Beers, Executive Assistant to Councilmember Kelly Takaya King
Sarah Freistat Pajimola, Executive Assistant to Councilmember Keani
Rawlins-Fernandez
Evan Dust, Executive Assistant to Councilmember Tasha Kama

Zhantell Lindo, Council Aide, Moloka'i Council Office
Mahina Poepoe, Legislative Analyst, Moloka'i Council Office
Denise Fernandez, Council Aide, Lāna'i Council Office
Mavis Oliveira-Medeiros, Council Aide, Hāna Council Office
Daniel Kanahele, Council Aide, South Maui District Office
Anabelle Hernandez, Council Aide, Makawao-Ha'ikū-Pā'ia District Office

ADMIN.:

Sandy Baz, Managing Director, Department of Managing (Item APT-1(6))
Moana Lutey, Corporation Counsel, Department of the Corporation
Counsel
Christie Trenholme, Deputy Corporation Counsel, Department of the
Corporation Counsel

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Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel

Keola Whittaker, Deputy Corporation Counsel, Department of the Corporation Counsel (Item APT-1(6))

Caleb Rowe, Deputy Corporation Counsel, Department of the Corporation Counsel (Item APT-1(6))

Richelle Thomson, First Deputy Corporation Counsel, Department of the Corporation Counsel (Item APT-1(6))

OTHERS: Kamalani Pahukoa (Items APT-1(6), -1(7))
Faith Chase (Items APT-1(6), -1(7))
Lucienne de Naie (Items APT-1(6), -1(7))
Albert Perez (Item APT-1(6))
Tara Apo-Priest (Item APT-1(6))
Dick Mayer (Item APT-1(6))
Barbara Barry (Item APT-1(6))

Resources:

Maranda Saling, Government Affairs and Policy Specialist at Rural Community Assistance Partnership (Item APT-1(7))

Olga Morales, Rural Community Assistance Partnership (Item APT-1(7))

Blanca Surgeon, Rural Community Assistance Partnership (Item APT-1(7))

Barbara VanScoy, Portfolio Manager, Heron Foundation (Item APT-1(7))

Jonathan Likeke Scheuer, Department of Hawaiian Home Lands (APT-1(6))

Lucienne de Naie (APT-1(6))

PRESS: Akakū: Maui Community Television, Inc.

CHAIR SINENCI: . . .(gavel). . . Aloha ‘auinalā kākou, and kalimera. Welcome to the Agriculture and Public Trust Committee meeting of Tuesday, May 31st, 2022. Please...may it please come to order. It is 1:32 p.m. I'm Shane Sinenci, your Committee Chair. And Members, in accordance with Sunshine Law, if you're not in the Council Chamber, please identify by name who, if anyone, is present with you. I currently have East Maui District Staff with me, Dawn Lono and Mavis Medeiros. Joining us today we have Committee Vice-Chair Councilmember Gabe Johnson. Kalimera.

VICE-CHAIR JOHNSON: Good morning, Chair and Councilmembers. Kalimera to you. I am alone in my office with my dog, and there are no testifiers at the Lāna‘i District. Mahalo.

CHAIR SINENCI: Okay. Welcome, welcome, Gabe and your dog. Next we have Councilmember Kelly Takaya King. Aloha ‘auinalā and kalimera.

COUNCILMEMBER KING: Aloha ‘auinalā and kalimera, all of you too. That always reminds me of that Kalamata olive. We have no testifiers at the South Maui District Office, and I'm still at my home office, and my husband is two rooms away doing his meetings. I guess I have to say...

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CHAIR SINENCI: Next...

COUNCILMEMBER KING: We have to say his name, so I'll say his name, Bob King.

CHAIR SINENCI: Okay. Welcome, Member King and Bob. Next we have Council Chair Alice L. Lee. Aloha 'auinalā and kalimera.

COUNCILMEMBER LEE: Aloha 'auinalā and kalimera to you and to everyone else. I'm here in my workspace at home alone, looking forward to your meeting.

CHAIR SINENCI: Mahalo, Chair Lee. Next we have Councilmember Mike Molina of this morning's GREAT Committee. Kalimera.

COUNCILMEMBER MOLINA: Aloha and kalimera, Mr. Chair. I'm back at my residence here in Makawao, and I've been informed that there are no testifiers at the Pā'ia District Office. Thank you, Mr. Chair.

CHAIR SINENCI: Mahalo, Member Molina. I did get a text from Member Paltin. Oh, is that...oh, she's here. Councilmember Tamara Paltin, kalimera.

COUNCILMEMBER PALTIN: Kalimera and aloha 'auinalā kākou. I'm just returning from Ed's Union, where I had my vehicle serviced, and I will be walking up the stairs to the Old Lāhainā Center, where I have with me District Office Staff Christian Balagso, EA Angela Lucero, and my two little rugrat interns, Nahiku and Kalehua Paltin-Vierra. And my ETA is about one minute. Thank you.

CHAIR SINENCI: Okay, great. Probably after we do all of our meeting formalities, you'll be set to go. And welcome, Staff and whole gang today. Finally, we have Council Vice-Chair Keani Rawlins-Fernandez. Aloha 'auinalā and kalimera.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Moloka'i Nui A Hina. I'm at the Moloka'i District Office alone on my side of the office, and we have our Community Outreach Specialist Zhantell Lindo, and my Legislative Analyst Mahina Poepoe, on the other side of the office. And we have no testifiers here at the District Office. Mahalo, Chair.

CHAIR SINENCI: Mahalo, Member Rawlins-Fernandez. And Members, of course our Non-Voting Committee Members today are Pro Tem Tasha Kama as well as Councilmember Yuki Lei Sugimura. They're always welcome to join us if they so choose to. From the Administration today we have the Department of Management, Director Sandy Baz will be joining us for our second item. Then for...I do have listed here Deputy Corporation Counsel Thomson, but I'm not sure if Director Lutey is on for today. And we had also asked Mr. Whittaker and Mr. Rowe to join us later for our second item today. Our other resources, Members, for APT-1(7) is Ms. Maranda Saling of the Government Affairs and Policy Specialist, Rural Community Assistance Partnership, as well as Ms. Barbara VanScoy, the Portfolio Manager of the Heron Foundation. And we've

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also asked Ms. Lucienne de Naie and Mr. Jonathan Scheuer to also serve as resource persons today for our second...excuse me, for our first and second items. So if there are no objections, I'd like to designate them as resource personnel under Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Okay, great. Thanks, Members. Staff with us today is Ms. Alison Stewart, our Legislative Analyst. Kalimera.

MS. STEWART: Aloha, Chair, Members.

CHAIR SINENCI: Aloha. Also joining us today is Ms. Kasie Apo Takayama. Aloha and kalimera.

MS. APO TAKAYAMA: Kalimera, Committee Chair and Members.

CHAIR SINENCI: Also joining us, our Committee Secretary is Ms. Yvette Bouthillier. Aloha and kalimera.

MS. BOUTHILLIER: Good afternoon, Committee Chair and Committee Members.

CHAIR SINENCI: Good afternoon. Also with us today is Ms. Maria Leon. Kalimera.

MS. LEON: Aloha. Thank you, Chair and Committee Members.

CHAIR SINENCI: Also our Assistant Clerk, Ms. Jean Pokipala. Aloha, and kalimera. As well as our Legislative Attorney, Remi Mitchell. Kalimera.

MR. MITCHELL: Aloha, Chair and Members.

CHAIR SINENCI: Aloha. Okay, Members. For today's agenda, we have two items: APT-1(7), the Water Authority Financing; as well as APT-1(6), the Proposed Charter Amendment to Establish the East Maui Community Water Authority. So let's begin with public testimony. Testifiers wanting to provide video or audio testimony should have joined the online meeting via the BlueJeans link or phone number noted on today's agenda. Written testimony is encouraged, and can be submitted via the eComment link at mauicounty.us/agendas. Oral testimony is limited to three minutes per item. If you're still testifying beyond that time, I'll kindly ask you to complete your testimony. When testifying, please state your name...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair.

CHAIR SINENCI: Oops. Go ahead, Staff.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, do you want someone to...oh, okay. No, I just wanted whoever was sharing their screen to know that they were sharing their

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screen. That's all. Mahalo, Chair.

CHAIR SINENCI: Yeah. And we can wait until our item comes up and we'll start presenting. Okay. Continuing with testifying, please state your name, and if you're testifying on behalf of any organization or if you're a paid lobbyist. If you are logged into the meeting, Staff has added your name to the testifiers list. You may indicate in the chat if you do not wish to testify. However, chat should not be used for discussion or comments. Be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you're done testifying, or if you do not wish to testify, please disconnect from BlueJeans and continue viewing the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. You may be disconnected after oral testimony, as a reminder. Thank you in advance for your cooperation. Staff, will you please call the first two testifiers?

MS. STEWART: Chair, the first testifier is Kamalani Pahukoa, to be followed by Mary Ann Pahukoa.

CHAIR SINENCI: I believe she is the same, but go ahead, Ms. Pahukoa.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. PAHUKOA: Aloha. Same person. Aloha, Committee. Can you hear me well?

CHAIR SINENCI: Yes, we can hear you.

MS. PAHUKOA: It's Kamalani testifying from the car. Mary Ann Kamalani Pahukoa testifying on my...on behalf of myself and my 'ohana. Diving right into it, there's a stigma that East Maui kalo farmers and community does not want to give water to Central Maui and Upcountry farmlands. And just clearing the air, this is false. You know, we have 'ohana, and residents, and kuleana to serve Upcountry. Since the water diversions have been built, the real issue is the current management by foreign entities and corporations. I support the financing of the Water Authority...Maui Community Water Authority. I think it's a huge step for you and our County, and a historic move towards better management practices. Really excited about this on the agenda, and I hope you guys holomua as you guys have been doing, you know, this whole past year. From my understanding, an example of the parties who hold interest would be the Kula Agricultural Park and its surrounding farmers and leaders who are in need of an organized structure; the East Maui Community Water Authority, to understand the scientific side and the engineering aspects of the waters and the economic factors that can benefit our farmers and local businesses, which they do know. We just kind of need that...to eliminate that corporate...we need to have that community-based contact. You know, it's so hard to get ahold of these corporate entities who are based in Canada and so forth. I think the kuleana for the Water Authority would include, of course, ditch and upkeep and maintenance of the systems, system modifications and expansions. When it comes to financing the Water Authority, I'm not sure how the County would replicate the employment positions. I'm wondering if you're going to replicate East Maui

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Irrigation, or perhaps establish new positions that hold similar roles to the current management, like personnel. When it comes to the financing and the pricing structure, I see a tier-based system. For example, especially for commercial farmers, Tier I would be Dole, A&B, ranchers, which, you know, would pay a higher rate of water. Tier II, for example, would be recreational users, users with a PUC. And then Tier III, of course, would be the kuleana users and the farmers. Right now I think Upcountry Ag Park pays \$1.10 per thousand . . . *(timer sounds)*. . . If I have time, I can move on to the second agenda item.

CHAIR SINENCI: Okay. Members, any questions for Ms. Pahukoa at this time? Okay. Seeing none, go ahead, Ms. Pahukoa.

MS. PAHUKOA: Moving on to the second, you know, it's always been a tactic to control the water. Those who control the water control the people. And with this agenda item listed, you know, this is a real hit to disenfranchise corporate management and take back control to our number one resource. We all know East Maui is by far the most abundant side of the island when it comes to water. Our watershed stretches from the mountains to the sea. The impacts of our watershed happen from tourism, commercialism, dewatering of our streams. You guys already know that. If Maui Community Water Authority was created, I see it being an informative department with radio announcements perhaps, similar to the Hawai'i County, like Civil Defense. The announcements should share data regarding rainfall and drought times, when and how to use water appropriately, and when to cut down due to extensive low rainfall times. The organization structure of East Maui Community Water Authority should include . . . *(inaudible)*. . . from mauka, and then we have those shoreline, and then perhaps even, you know, the roadways because it's all relative. Of course, water monitoring of the muliwai and eradication of invasive species, you know, this all needs to be thought about when it comes to the financing part of this water board...water hui. I really want this Council to remember that your Board of Water Supply did a temporary investigative group--we call it the TIG--and they released it October 17th, 2019. I think Ms. Shay Chan Hodges was a primary, you know, leader in the...in that working group. And so if everyone can keep that on the front panels of your portfolio when establishing this Community Water Authority. Again, this is such a complex issue, and it...you know, the history is written. The present rate of water is quadrupling in the future. It is just our kuleana. Water meters, as you guys know, your list is just a long, long, long wait line. Right now, the Canadian powerhouse assumes they will own this public trust resource, and they're convincing their stakeholders that they will profit from our water. So mahalo to you guys for taking action. In 2019, I just wanted to mention, we established East Maui Water Council. Due to COVID, we haven't met too much, but you know, this was organized and inspired by Pohaku Council, a grassroots organization created to uphold the values of aloha 'āina. So you know, East Maui Water Council would love to volunteer to help this Water Authority into the future. . . . *(timer sounds)*. . . Yeah. You guys have any questions for me, please let me know. If not, mahalo you guys for your time.

CHAIR SINENCI: Mahalo, Ms. Pahukoa, for your testimony this afternoon. Members, any questions for our testifier? Seeing none. And mahalo for testifying this afternoon. Staff,

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could you call the next two testifiers?

MS. STEWART: Chair, the next testifier is Faith Chase, to be followed by Lucienne de Naie.

CHAIR SINENCI: Aloha, Ms. Chase.

MS. CHASE: Aloha, Chair Shane Sinenci. Aloha, Committee Members. I am testifying on...oh, both items, I guess. I just...I just want to say, first of all, you know, this was not an easy subject. And I...while it's probably not absent knowledge to the greater body, I grew up with you, Shane. We went to school together. We've been friends...kept friends for a long time. I just have to say that I am very, very proud of how you brought your fellow Councilmembers up to speed on this very sticky subject, and politely, without any...you know, keep sticking to the science facts. I'm really appreciative of that. This is a...this is a doozy, as some people would call it. I think that this Council is really important because I go to a lot of the Board of Water Supply meetings, and thank goodness for that TIG that the previous testifier mentioned. That work was amazing. But you know, the turnover for the Board of Water supply is...it's a mixed bag. And while they might be civic-minded community members that are willing to participate, they are by far not the experts in the area. So by acknowledging the konohiki, the watershed stewards, those sort of proxy people in their...in their watershed is really...is really commendable. I like the spread for each, you know, area. I like the representation that...how it reads. In one of the recent Board of Water Supply meetings, I just...I have to mention something that got under my skin a little bit. You know, I...it's...no offense to the Corporate Counsel giving advice to the board, but when they were trying to explain what was going on in this Committee and encouraging those board members to come to this meeting, or the meetings that this was on the agenda, he referred to...you know, he explained to the board members that, you know, this will be a measure that would take power away from the board. And I sat with it, and I...and I...you know, I take such offense to that because yes, it's important that the Board of Water Supply has their powers in situations. Certainly in litigious situations, you need quorum. You need those, you know, like-minded, grounded people, but this is not...this is not what's happening here. This is not taking...this is empowering the people. It's completely the opposite. And so I think there might be a more polite way to rephrase that moving forward. Anyway, that's just, you know, me. I have my pet peeves. I just have to say that our Maui Island Plan, you know, we always say...we always come and testify. Why are you planning developments when you haven't found the water? It's a common knowledge that it's been backwards. So this is that piece that's going to...is going to be helping in that development of affordable housing or sensible, sustainable developments moving forward. And I just want to remind you, the watershed, everybody here was supportive of the 'Ōlelo Hawai'i...Mahina 'Ōlelo Hawai'i, right? Okay. So Pūnana Leo's mascot is the 'alalā, the Hawaiian crow. We're down to five. There were 27. We're down to five. And it's the protection of the watershed . . . *(timer sounds)*. . . that is...that that species stays strong. And you know, I appreciate the work of DLNR conservationist invasive species work and all the watershed partnerships. I'm wrapping it up. But all of those entities, the results, the deliverables, they really haven't been that commendable. So it's a...it's time to take a . . . *(inaudible)*. . . look. It's time to invite, you know, new people to the...to the decision-making space. And I'm really appreciative

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that this is on this agenda and moving forward. And I just have to say it will inspire a Leeward Haleakalā Watershed Council. Because right now, you do not have a watershed partnership taking care of almost 50,000 acres. So this is a stepping stone for other spaces that's going to work great. Thank you so much for listening.

CHAIR SINENCI: Mahalo, Ms. Chase, for your testimony. We have a question for you from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Chase, for your testimony. I just was clarifying when you were saying about the Corporate Counsel. It wasn't incorrect information, it was just that you took offense to the information because it would be taking the power away from one citizen group, and it would be giving it to a different citizen group with more direct ties to that area that it affects. Is that what you meant?

MS. CHASE: Yes, I'm sorry. They do not need any bruise...any more bruises after this morning's meeting. I...they did not say anything incorrect. I just...I did take...there's a different way to say it. You know, I just...I would like to see the highlight on the power of the people versus, you know, some power...you know, some power strips being...you know, power being stripped away. Thank you.

COUNCILMEMBER PALTIN: And then to clarify the other statement that you had made about, you know, being this and then opening the way for other water authorities, just wanted to clarify. Are you asking that the Charter question be more broad so that it would just open the door for water authorities beyond the East Maui Water Authorities, or did you want the...were you saying that the Charter question should be as it is, and if there were a desire to make other water authorities, do another Charter amendment question at that time?

MS. CHASE: Wow, that's a spectacular question. I guess I would say that this is a little late to the show, but I appreciate that suggestion. And in defense of my beautiful East Maui where I was raised, it took a long time to get this far. And I have gone to the Charter Commission meetings, and I wouldn't want to put another wrench in any gears in moving this forward, but I definitely would think that that might be entertained. And maybe on the heels of this work with results and deliverables, then that might be considered into the future. Thank you for asking. I leave that to you.

COUNCILMEMBER PALTIN: Okay. Thanks. I love getting compliments on my question making abilities. Carry on. Just joking, kidding, sorry.

CHAIR SINENCI: Mahalo, Member Paltin. And yeah, we should have some resources later on to answer that question. Mahalo, Ms. Chase, for your testimony this afternoon. Next, Members, we have Ms. Lucienne de Naie.

MS. DE NAIE: Aloha. My name is Lucienne de Naie, Maui County resident. And I'd like to speak to both matters on the agenda. First, I'd like to thank the Committee for bringing these resource folks around to, you know, present perspectives and answer questions.

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I'm looking forward to hearing the presentations today myself. I'd like to speak first to the funding aspect, you know, the number 7, AP-1(7) [sic]. And I think it's important to keep in mind that there's two types of funding that are needed in order to manage a system like we have in East Maui, or Nā Wai 'Ehā, or West Maui. One is the funding to just kind of keep the system going, and keep the water flowing to all the people who are depending upon it now. And those types of things are usually covered by the rates that people pay. So that is, you know, one aspect of funding. And I know there were some concerns that there might be a hike in rates if the County, who's getting this very, very inexpensive water now, were then in the position where they actually had to manage and run the system. But I think that if we look at the pricing, and the key is the pricing, we have, you know, one large customer in the system kind of getting a much better deal than everyone else because they pay to maintain the system. Well, we could have that customer pay more of a fair share, and that would pay to maintain the system. And everybody else could get similar rates to what they have now because those rates do contribute, and they're artificially low right now because we charge everyone the same rate Countywide, and yet it costs more to deliver Upcountry. So part . . . (inaudible). . . figuring out how it could cost let to deliver money...to deliver water Upcountry. And that comes to the second part of financing, which is really the upgrades, the system efficiency upgrades, the system redesign upgrades. And those, it's my understanding, would not come out of rate payer funds, and they would not necessarily come out of bond issues. But this is where we would turn to the revolving funds and to the Federal funds for . . . (timer sounds). . . improving rural systems. So it's just important to keep those two aspects in mind as we talk about funding because they're very, very different. And then for the second agenda item, just the general establishment of the East Maui Community Water Authority, I just urge the Members to consider what amendments to the proposed Charter amendment would be needed to address the concerns that have been brought up because I think that there are tweaks that can be made that will make greater clarity in the Charter amendment, and that's just part of the process. But I just want to speak from the bottom of my heart as a resident of East Maui. The thing in this Charter amendment that motivates all of us in East Maui the most is that we would have a watershed plan where we actually had some say in. And it may not be known to the Committee Members, but there is already an East Maui watershed plan that...there's partners. The County is a partner in it, and the...you know, The Nature Conservancy is a partner, and Haleakalā Ranch is a partner, and A&B is a partner. And guess who's not a partner, is all the people who live and depend upon the waters of East Maui. So we really need a different...a different style, and a different nature of watershed planning from the mountains to the sea. We do not have that now. It's in our Maui Island Plan that we want to do this. It's in our Water Use and Development Plan that we want to do this. But I have very, very little faith that if these leases do not go to the County that our State will give us a plan, a watershed plan, that goes from the mountains to the sea. It will be the standard watershed plan that only deals with the upper lands, where the upper landowners control the lands. And those of us who live between the sea and the ditch system, where all the water is taken, will have no management plan other than we don't need to do anything to manage this area, it's too far gone. And that's just not acceptable to our communities. So that is a big difference for those of us who live in the area that we would finally get a management plan, we would get a voice in a management plan, and that management plan would reflect real conditions on the

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ground. So mahalo for listening, and look forward to the presentations and the deliberations.

CHAIR SINENCI: Mahalo, Ms. de Naie. And Members, we've asked Ms. de Naie to stick around for our second item should you have more questions. Okay. We have...but we do have a question for you from Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. de Naie, for your testimony. My question was on your testimony for the first item, if you could clarify. It seemed to me from what you testified that you don't consider what is being done as maintenance currently as adequate; is that correct or not?

MS. DE NAIE: Yes. Thank you for the question, Councilmember Paltin. The maintenance is kind of bare minimum. I mean, there is maintenance done, but you know, we used to have a lot of Sierra Club outings to these trails, and I walk them very frequently every year. Four or five times a year, you know, we're out on some trail or another. COVID kind of changed that, so we're just getting out there to see what's going on, but I'll just base on our own intakes in our own community. They are neglected. When we...when EMI would hear that the Water Commission was coming out, they'd go and they would clear away so that you could see, you know, the intake, so that you could have a pathway to it. It's like they're all choked with weeds and rocks. It's not...it's not a system that is efficient at all, and it's not regularly maintained under the, you know, current regime. Mahi Pono said that they wanted to invest some money in it, and they have cleared a few of the ditches, but then the same areas get overgrown again. It's just...there's no interest, I think, in working on that side of the equation. The water flows whether they maintain much or not. It just doesn't flow as efficiently.

COUNCILMEMBER PALTIN: Okay. Thank you for the clarification. I have similar issues.

MS. DE NAIE: Yes, it's very similar in West Maui, you know, busted up old system that would cost money to really make it right. And so someone should come up with a plan, but you know, I don't think under State lease agreement to a private corporation that's already getting water no matter what they do, that's going to be the priority.

CHAIR SINENCI: Mahalo, Member Paltin. Any other questions? Okay. And thank you, Ms. de Naie, for agreeing to stay on with us for our second item.

MS. DE NAIE: Sure, look forward to it.

CHAIR SINENCI: Staff, can you please call the next two testifiers, please?

MS. STEWART: Chair, the next testifier is Albert Perez, to be followed by Brenda Salgado.

CHAIR SINENCI: Aloha, Mr. Perez.

MR. PEREZ: Aloha, Chair Sinenci, Councilmembers. Can you folks hear me?

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CHAIR SINENCI: Yes, we can hear you.

MR. PEREZ: Okay. Good afternoon. I'm testifying on APT-1(6), the Water Authority. My name is Albert Perez, and I'm with Maui Tomorrow. So you know, it's just time. It's time for Maui County to take total control of our own water resources. I've said this many times, but having a public water system depending on private corporation places the public at the mercy of corporate decisions that are based on what's best for the company, not necessarily the public interest. It's a risky situation. So if there's a big landslide or some other event that damages the ditch system, it may or may not be worth it for the private corporation to repair the damage. But that landslide will be much more likely if current neglect of the watershed health continues. As climate change continues, watershed health will be critical in preserving any flow at all. And just as a reminder, or in case you didn't know, there's 30,000 acres of miconia in East Maui. And the characteristic of miconia is that it causes landslides. I don't have to go into all the reasons why, but it causes landslides. And the more miconia we have, the more likely that is. Last time I was up there on the ditch trail, there...the people on the...on the...on a site visit were pulling out miconia by the dozens. So it's everywhere. Anyway, if the company...if it gets sold like it did in 2018, we'll have a whole new period of uncertainty while we wait and we hope that the new owner will have our best interest in mind. So that said, it's important to note that water for serious agricultural users will continue to be provided, balanced with instream uses such as kalo growing that have priority. The advantage of a public water management entity would be that the decisions would be made transparently, consistent with the public trust, rather than behind closed doors based on what will provide the highest return for the corporation. Thank you.

CHAIR SINENCI: Mahalo, Mr. Perez, for your testimony. Members, any questions for Mr. Perez? Seeing none. Again, mahalo for joining us this afternoon.

MR. PEREZ: Okay. Aloha.

CHAIR SINENCI: I believe...Ms. Salgado. Here to provide testimony? I see you on, Ms. Salgado. Can you hear us? Okay, we'll move on. She may be one of the resources. Staff, can you call the next two testifiers?

MS. STEWART: Chair, the next testifier is Tara Apo-Priest, to be followed by the caller with the last four digits 1874.

CHAIR SINENCI: Aloha, Ms. Apo-Priest. Are you here to...oh, we can see you.

MS. APO-PRIEST: Aloha. Aloha, Chair Sinenci, and Members of the Agriculture and Public Trust Committee. My name is Tara Apo. I am a senior of Sustainable Science Management at the UH Maui College, and I also help to develop community-based stream monitoring in the Huelo area. I am testifying on behalf of myself, and I am not a lobbyist. I am testifying in strong support of the East Maui Community Water Authority. This brings stewardship of our water resources back into the hands of the people of Maui, where it has not been for many generations, and gives voice to communities who have historically been neglected. This will help Maui County ensure

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water security for its residents moving into a climate uncertain future. For over a century, we've had a system controlled by large scale agriculture, which has failed to uphold our public trust purposes for our streams. We must not perpetuate this cycle by allowing a 30-year lease to be granted to A&B/Mahi Pono. The Canadian pension fund that owns and controls Mahi Pono, PSP, has already invested in the privatization of water systems in other drought prone areas globally, and has an egregious track record worldwide. Our water does not belong in the hands of this foreign corporation, who is already our largest landowner, and whose Government-mandated priority is to maximize returns on investments. Unfortunately, this is exactly what will happen unless action is taken. This is Maui's opportunity to work together towards systems of pono resource management that ensure water security for our keiki and our mo'opuna. This is a chance to dismantle a broken and unjust system that wastes an exorbitant amount of water and prioritizes commercial profit over the wellbeing of our mauka to makai ecosystems, local communities, and the preservation of our most vital resource, wai. Maui can serve as a model for the rest of our State. Many municipalities across the country manage water through water authorities or similar structures, and are Federally funded. The establishment of this Water Authority provides the opportunity to set fair rates for our water users, to ensure water security for our Upcountry farmers and ranchers, who are the bedrock of food security for our island. We have the opportunity here to generate revenue to repair the aging and leaking infrastructure of the EMI system, and to fund watershed conservation, help make sure that we continue to receive as much rain as possible to these vital areas. With climate uncertainty on the horizon, we cannot afford to mismanage this resource. The first step of this Water Authority would to be complete...would be to complete an in-depth feasibility study for how this could be operated. We can do this, and we can do this well, but none of this can be accomplished if we perpetuate old, inadequate systems. As a whole, we need to become much wiser about how we are stewarding . . . *(timer sounds)* . . . our resources to ensure the sustainability and resilience of our people and our 'āina. This is how we ensure good resource management. We have the right experts, we engage the minds of the community, we source knowledge from different sectors so collectively we can make sure we're thinking about everything we need to, to understand and care for such complex systems. I hope the Members of the Council will see this for the opportunity that it is. Let's allow Maui to pave the way. Mahalo for the opportunity to testify, and for the important work that you do.

CHAIR SINENCI: Mahalo, Ms. Apo, for your testimony. We have a question from Member Paltin and Member Molina.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Apo. I was wondering if you did have that...what you were reading from, if you could email us a copy?

MS. APO-PRIEST: Sure, absolutely. I'd love to.

COUNCILMEMBER PALTIN: Right on. Thank you.

MS. APO-PRIEST: You too.

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CHAIR SINENCI: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. Member Paltin read my mind. Ms. Apo-Priest recently gave a very, very interesting and informative presentation to the Ha'ikū Community, and you hit on some very, very good points, Ms. Apo-Priest. So yeah, we definitely would love to have your testimony submitted to Committee. Thank you.

MS. APO-PRIEST: Mahalo. I'll be happy to do that.

CHAIR SINENCI: Mahalo for your testimony this afternoon, Ms. Apo.

MS. APO-PRIEST: Thank you.

CHAIR SINENCI: Looks like 1874 will testify later. Is Ms. Salgado still...wish to testify? We can always come back to her. Staff, can you call the next two testifiers, please?

MS. STEWART: Chair, the next testifier is logged in as Velma (*phonetic*)--and if she'd like to testify, please state your last name for the record--to be followed by Tina Pedro.

CHAIR SINENCI: Aloha, Velma.

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

CHAIR SINENCI: Okay. We'll go to Ms. Tina Pedro Gomes. Ms. Gomes, are you here to testify? If not, we will move on to Mr. Mayer.

MR. MAYER: Okay. Thank you very much, and good afternoon, everyone. I'm going to be repeating some of the stuff I said before. Let me turn my speaker off here.

CHAIR SINENCI: Okay.

MR. MAYER: Echo. Okay. What you have, really, is a choice. The choice is...or Maui County has a choice. You can either have this water system operated by the Canadians, or we could have it operated by some entity created by Maui County. I do not want it to be conducted by the Canadians. After they bought the lands, the Maui...the...I made numerous efforts, from emails and voice, to telephone, to try to contact anybody in their departments there that were running this thing. No one ever made any effort to get back to me with all the emails I sent as the Coordinator of the association...of Maui Community Association.

CHAIR SINENCI: Hold on, Dick. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Mayer, if you can mute what you're listening to because it's really hard to understand you with the echo.

MR. MAYER: This any better? Oh, I see. Okay. Now it'll be better. Can you hear me now

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better?

CHAIR SINENCI: Yes. Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, thank you.

MR. MAYER: How much did you hear of me, of my saying? Did you hear any of it?

CHAIR SINENCI: You don't want the pension fund.

MR. MAYER: I was just saying that the Canadians, I made real efforts as the Coordinator of the Maui Community Association to deal with them, to have them call me, or send me...they never made any effort, and I made numerous efforts to contact them. I would be concerned if they were to take this over and have that consistent lack of communication with your entity, with the County, et cetera, if they took the system over. Second thing, DLNR has not said what conditions they would put on any kind of a lease, and that is very, very important. Could it be reviewed every five years? Would it...would it be able to be transferred to anyone? There's no way of knowing how that would work, how rates would be set. Would that be in the lease, would it not be in the lease? Would it give any authority to the County Government in any form to make any input into setting those rates, which are used by the County and by the major agricultural interests in Central Maui, et cetera. Those are...that's one really major concern that I have if you folks don't do what is now in front of you. The six cents that you now get...for the water, you pay...the County pays for the water is an anomaly based on what Elmer Cravalho did in a special deal with A&B around 1974, but he said, we'll let you go ahead with Wailea and the developments there. We'll make it easy if you give us the water for six cents. A&B knew that tourism would be a bigger industry than agriculture, made that concession. There's no reason to believe that that six cents, that low six cents rate could continue. And I can give you more details if you want it. I would like you to think of this thing that's being set up as much like a public utility, just like the electric company makes the electricity, distributes it, charges, sets rates, but the PUC reviews it. I would imagine this entity could do the same thing. They would collect the water, manage the system, distribute it out, and have the rates set, in this case not by the PUC, but by the County itself. You need the details in there to say exactly that. And it would've been ideal if the Administration...the Mayor and his Administration had come to you saying...knowing that this is going to be an issue that they were concerned about who runs that system, and given you a...give you an ordinance to do just what you're trying to do now. I'm not sure a Charter amendment is even needed, but it would've been great . . . (timer sounds) . . . to do this. Just this morning, David Taylor called me up unofficially, just to talk with me about this. And we talked back and forth. We said why can't the Administration, David Taylor, Sandy Baz, the Mayor, and Corp. Counsel get together and draft, in the next week or two, an ordinance that would allow you to do exactly what you're trying to do with authority with even a more of the fine points in there. For example, will the company...will the authority or this new entity that may be created, will they have employees? Are they County employees? Will it be a contract out? Will those...will those employees have union rights and retirement rights within the State system? Many, many issues could be put into an ordinance very easily written

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in there and made it clear what are the provisions that need to be considered. So I would urge you to contact the Administration and say, can you give us an ordinance that will do this effectively on behalf of the County so we don't have to trust an international body, and the Canadians could get the lease and perhaps sell it. Somebody mentioned, for example, that all their lands have now been divided into what are called condominiums. And they, in the future, may decide to sell off those orange groves, or lemon groves, or coffee plantations to a whole bunch of different people. And then it becomes very unwieldy if the County has to deal with them all indirectly seeking to get that water. So I urge you, please do this. We need...the County needs to get this, find out the best way to do it, and see if the Administration can help you expedite this with getting...covering all the various tweaks that are out there. It could still happen. You have a few weeks to work, and they could give it to you, and it could hopefully happen before the end of...before the election. It's done, the mechanism is set in place, and you folks can see in your...this Council. Rather than waiting for a new Mayor and a new Council, you could actually get this authority body set up. Thank you very much.

CHAIR SINENCI: Mahalo, Mr. Mayer, for your testimony. We have a question from Member Paltin and Member King.

MR. MAYER: Let me put my earphones on.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Mayer, for your testimony. My clarifying question...

MR. MAYER: Okay.

COUNCILMEMBER PALTIN: It wasn't clear to me from that testimony if you do support it as a Charter amendment. If you think it can be done by an ordinance, do you still want to go through with the Charter amendment or no?

MR. MAYER: I would continue going ahead with the Charter amendment. I support it, very much so, because I think the County needs to take action. If the Administration can give you a better bill, an ordinance that you folks can then review, pass, and hold a public hearing on, and get it done perhaps by June, July, August, you may have an ordinance and the idea of a Charter amendment may be moot. You may not need it. And that would be, I think, a very important thing to be able to do. So yes, go ahead with the Charter because I don't know whether the Administration will want or will be able to act quickly enough.

COUNCILMEMBER PALTIN: Okay. I guess...I mean, you're suggesting that the Administration propose the ordinance because they know the ins and outs of what they're capable of? Because we can propose an ordinance as well, but we don't have the information that they have. And that's why you're saying for them to propose the ordinance?

MR. MAYER: I mean, yes. Certainly your Council Staff could do it, but probably many of the things that they would do to prepare it would be to call the Departments. The legal issues, the financing issues, the personnel issues, they would do that, whereas the

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Administration, theoretically at least, has control over all the Departments and can do it. They can put one person in charge to draw up the ordinance and get it done. And ideally, of course, they would work with your Staff to do that.

COUNCILMEMBER PALTIN: So basically faster and more efficient coming from the Administration?

MR. MAYER: I think it would be quicker and --

COUNCILMEMBER PALTIN: Okay.

MR. MAYER: -- be able to do it. I'm not sure they would do a better job than you would do, but I think that at least it would get done probably a little bit more efficiently. And your Staff is not set up exactly...this really would be a complicated thing to get it done right. But I don't...

COUNCILMEMBER PALTIN: Okay. Thank you. I'll yield to my colleagues. Thank you.

CHAIR SINENCI: Mahalo, Member Paltin. We have a question from Member King, and then Member Molina.

COUNCILMEMBER KING: Thank you, Chair. My question was kind of along the same lines, Dick, but did you...do you have it on legal authority that we can do it this way without doing the Charter amendment?

MR. MAYER: I am not a lawyer, as you know. I believe you could. I don't see any reason why you couldn't. For example, you went ahead and bought the Maui News building and incorporated that in. You know, you have the authority to buy things, and to do things, and perhaps even to set up a Department or a division that would do this. You know, I'm not sure what term somebody might use. You don't have to necessarily...to set up Departments you need a...I think a Charter change probably, but you could do it as a division, let's say, within Economic Development, or within the Water Department, even a division of the Water Department to run this whole thing.

COUNCILMEMBER KING: My understanding is that we're trying to make it a separate entity and not part of the County Administration.

MR. MAYER: Yeah, I...and then you could...

COUNCILMEMBER KING: So it wouldn't go in a Department.

MR. MAYER: I don't see why you could not set up a separate entity to do this, and it would act very much like a public utility. You know, this is for the public. This is to provide a service, like electricity. In this case, it's water.

COUNCILMEMBER KING: I didn't know if we had any legal opinion on this. So we can check with our, you know, attorneys and Corp. Counsel to find out if that's...if that is correct,

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if that's something we can create.

MR. MAYER: Yeah. If you had...

COUNCILMEMBER KING: But I know the EP&S division of DEM was set up through a Charter amendment. So you know, I think we just need to check to see what the legalities are.

MR. MAYER: You would have to...you would have to check it, and if you can do it, if they can do it, that would...that would be a very efficient way of doing it, rather than having...the other problem I see is...I think...I'm very much in favor of the Charter amendment if we don't do the...don't have the ordinance. The only thing is you will then have to do a lot of explanation to the public, and you may find out in November that there are lobby groups, let's say Mahi Pono, that would urge the public to turn down the Charter, and you may not have anything. So having this backup plan B, so to speak, may be an effective way of making sure that the long-term interests of the County are taken care of.

COUNCILMEMBER KING: Okay. And then my second question is, would you be in favor of a County Water Authority versus a specific one for a specific geographic area? Because that means we would have to set up a second one if we buy water...Wailuku Water or, you know...I mean...

MR. MAYER: West Maui or...yeah.

COUNCILMEMBER KING: Yeah.

MR. MAYER: You have a lot of...you have a lot of water purveyors in West Maui. You have the...essentially, the Wailuku Water Company. I mean, that's tough to say. I mean, ideally, you would have the ability to do all of them. And we have even one of the...one slight complications, and that is the water that now we get in Olinda and Pi'iholo also comes off EMI land, but it's not out of a lease area. And those waters from Olinda and Pi'iholo are mixed with the water coming into Kamole Weir to send Upcountry. So there are lots of subtleties that are in the background. And ideally, I think the County should take over the Olinda and Pi'iholo entire systems, not have EMI running that system for you, but that the County would actually...

COUNCILMEMBER KING: How difficult it is...you know, it takes a long time dealing with the PUC, and I'd hate to have, you know, four separate PUCs on the island each dealing with a separate piece of our water equation. So...okay. Thank you. Thank you for being here, Dick.

MR. MAYER: Right. The...I would just add to that last sentence. If you did it just for East Maui now, you would learn what you did right and wrong. So if you then did it for everybody, you might be able to do it right, and then at that point incorporate all of them.

COUNCILMEMBER KING: Okay. Thank you.

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CHAIR SINENCI: Mahalo, Member King. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. Good afternoon, Mr. Mayer. It's unfortunate to hear about your, I guess, not getting responded to from Mahi Pono with your questions. Is there anyone in particular you wrote to, and are you aware of maybe other entities that had the same questions for Mahi Pono, and they weren't being responded to...their questions weren't being responded to?

MR. MAYER: I went to their website and looked at the heads of all the departments that potentially could do it. I sent it out to maybe eight people at the company. No one responded. I also phoned the company, and left messages with the secretaries of these people to ask them to contact me back. No response at all. Now, I don't know anybody else who tried, but also, I think you're all aware, how many times has Mahi Pono come to you...or the Canadians come to you and made...I understand there was even problems...that the Water Board had trouble getting testimony from Mahi Pono at their meetings. So this is...this sets a dangerous precedent that I would hate to see once they...once they're fixed in a lease, who knows?

COUNCILMEMBER MOLINA: You bring up a very good point. Thank you. Thank you, Mr. Chair.

MR. MAYER: Thank you, Mr. Molina.

CHAIR SINENCI: Mahalo, Member Molina. Any other questions for our testifier this afternoon? Seeing none, thank you, Mayer, for your testimony. Staff, could you please call the next testifiers?

MS. STEWART: Chair, there's one individual remaining on the list, Barbara Barry.

CHAIR SINENCI: Aloha, Ms. Barry.

MS. BARRY: Aloha, Chair, Committee Members. Good to see you all again. I am testifying today on AP-1(6) [sic], and I think this is really an important thing to establish, and I support a Charter amendment to...creating this. Couple thoughts on it. I would really like to see it include Ha'ikū as well as East Maui because we have streams in our area in Huelo that are not included in the East Maui plan for observing the stream flow and setting stream flow standards. And I have personally been watching a couple streams, one right behind me on West Kuiaha in the Huluhulunui Ditch, that used to be a completely beautiful fast-running perennial stream all year round. And in the last couple years, it has come and gone intermittently. I go over the bridge. I've taken pictures. I've also talked to people on the East Kuiaha side, and their stream also has been stopped completely. And that used to also be a perennial stream. So I believe the Water Authority would be able help to monitor all the streams, not just ones in East Maui, but the other ones in Ha'ikū that are not getting any kind of attention at all. I did reach out to Mahi Pono in an email because...a couple of times to ask where the water has been going from these ditches, and never heard back from them. I've

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threatened to hike up these ditches and these gulches and see for myself, but I need a strong hiking partner with me. So that hasn't happened yet, but it's not outside of my list of goals. So the other reason why I think to...the other reason I think this is really an important...an important thing to establish is because there has been a lot of talk about drilling wells in the Ha'ikū area to move water over to West Maui. And there's so many things that need to be determined before this happens, and making sure the streams that are actually running and supporting farmers, kalo farmers, you know, are being monitored and managed. So I just think that this is a very big deal, and I support the establishment of this Water Authority to include not just East Maui, but also Ha'ikū. And let me just go over my notes. . . .(timer sounds). . . I think that's it and my time is up. So thank you so much. Appreciate y'all.

CHAIR SINENCI: Mahalo, Ms. Barry, for your testimony this afternoon. Members, questions for our testifier? None. Again, thank you.

MS. BARRY: Take good care. Aloha.

CHAIR SINENCI: Aloha. Staff, is there anyone else wishing to testify?

MS. SEWART: We've exhausted the list, but if you'd like to do a last call.

CHAIR SINENCI: Is there anyone else wishing to testify? Please go ahead and unmute and identify yourself. Okay. Seeing none. Members, if there are no more individuals wishing to testify, without objection, I'll now close oral testimony and accept any written testimony into the record.

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . . END PUBLIC TESTIMONY . . .

CHAIR SINENCI: Thank you, Members. Okay. Thank you, testifiers. And thank you, Members, for your questions.

ITEM 1(7): WATER AUTHORITY FINANCING

CHAIR SINENCI: Okay. Moving on to our first item, the Water Authority Financing, APT-1(7), Members, in accordance with the Rule 7(B) of the Rules of the Council, the Committee intends to receive a presentation and discuss matters relating to water authority financing community development investing. Our first presenter is Ms. Maranda Saling. She's the Government Affairs and Policy Specialist at Rural Community Assistance Partnerships, and she...prior to that, she worked with U.S. Senator representing New Jersey, Cory Booker, in his D.C. Office. Before that, she owned a PR firm focusing on community development. The Rural Community Assistance Partnership is a national network of nonprofit partners with over 300 technical assistance providers across the country. RCAP works to improve the quality of life in rural America starting at the top.

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They provide technical assistance, training, resources, and support to rural communities across every state, the U.S. territories, and Tribal Lands. Fiscal Year 2020, they helped rural communities across the country leverage approximately \$427 million in infrastructure funding, and serving more than 3.4 billion rural and Tribal residents in over 2,000 communities. I was fortunate to meet Ms. Saling earlier this month during the NACo WIR conference in Alaska. I got to sit with Ms. Saling on our train ride to Seward so I could tap into her expertise during the trip. So welcome, Maranda. Oh, and it looks like she has other...others with her, Ms. Olga Morales and Blanca Surgeon. And if there are no objections, Members, I'll designate them as resource persons under Rule 18(A) of the...

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Aloha, Maranda.

MS. SALING: Hello. Thank you all so much for having me. Please excuse my dimming light. On the east coast it is sunset already. So I'm here in D.C. Shane, thank you so much for having me and my colleagues. It was a great conversation that we got to have. It was a great summary of the Rural Community Assistance Partnership, RCAP, and that is really...actually, Alison, if you have the slides, if you wanted to go to the slide that was a map. If that isn't an option, I will just explain it really briefly. But RCAP is a national network of six different regional partners. And so Olga and Blanca are representing the region, RCAC, that is over Hawai'i. And so while I was trying to do some deep diving and...for this presentation, you all have the great pleasure of their expertise. So Olga is the Assistant Director for Community and Environmental Services, and Blanca is our Rural Development Specialist specifically with RCAC, our western partner. So if...we've discussed earlier. So if they want to come off mute and talk to you all about some specifics for about ten minutes, you can hit them with any technical assistance questions that you may have. But thank you so much, and I hope that we are able to be of service to your community. Thanks.

MS. MORALES: Thank you, Maranda. Thank you, Council Chair [sic] Sinenci and Councilmembers. Thank you for the opportunity. I was hoping to turn on my camera, but my camera is failing me today. It's not playing nice. It must be the end of the day. I am joining you from New Mexico, and so is Blanca. I am Assistant Director for Rural Communities Assistance Corporation. And the reason we became invited to the meeting and to have the opportunity to speak with you...it's a twofold actually. I oversee the work in Hawai'i. Both Blanca and I work very closely with Hawai'i. We have staff in Hawai'i, and we work the Hawai'i and Pacific Islands territory. And we also have a lot of experience working on the formation of entities, regionalization projects, consolidation projects, and the like. And so we probably have some experience that might be able to contribute and help you. I have had the opportunity to write legislation in the State of New Mexico to create a water authority, which was made up of several small entities, which has grown tremendously. And it's a very sustainable model. I also oversee, with the help of Blanca, the implementation of the regionalization program for RCAC across 11 western states. And so we're here as a resource. We do have some experience. We happen to be planning...we're in the middle of planning a trip to Hawai'i next month,

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and we'd be looking forward to maybe having the opportunity to meet up with you, and maybe share with you some of...some of our experiences, some of our knowledge, some of our resources, the many lessons learned that we've gained over 15 years of doing this kind of work. I'll stop there and I'll allow Blanca to say a word or two.

MS. SURGEON: All right. Mahalo, everyone. It's been great to hear all the testimony and the great support that exists for the initiative on this project. So I'm very excited to hear about the formation of the Water Authority and learning a lot about, you know, the different...you have a lot of expertise in...you know, in the room, and all the session that you've been having, and all the information that people have been providing. So I want to also...I want to mention that we're going to be in Hawai'i, but we're also...next week, next Tuesday, have a workshop that the funders...you know, the funders of these projects are going to be with us. And so I sent Maranda an email with the information on that workshop. It's next...it's actually next Tuesday, June 7th, from 1:00 to 3:00, and it's going to be virtual. And we're going to have, you know, the major funders for the State in there, and it's people that you can ask questions directly related to funding, and meet them too. And so we'll put that information in there for you, and hopefully you can...you can attend and talk to the funders directly about a project like this. Because it's so big that it probably will take multiple funders to fund something like this. So very excited to be part of the conversation.

CHAIR SINENCI: . . .*(inaudible)*. . . Surgeon. And yes, we can see you now, Morales.

MS. MORALES: Okay. I'd like to invite you to ask any specific questions we might be able to answer for you in relation to the proposed Water Authority. We'd be glad to stay on for any questions.

CHAIR SINENCI: Okay. We're going to wait, Members, until our second presenter, but did Maranda have some slides to share? Go ahead and share them now.

MS. SALING: So during our run through, I wasn't able to share the slides. It gave me the boot off of BlueJeans. So Alison was going to share them. But the slides were...Olga's actually going to speak and doesn't...we decided it was a little bit too in the weeds. So we can move forward without having that. Olga, if you want to share a little bit more information, or Bianca *[sic]*. I wasn't sure...or Blanca. I wasn't sure who was going to head that up.

CHAIR SINENCI: Okay.

MS. SURGEON: Go ahead, Olga.

MS. MORALES: Yeah.

MS. SURGEON: Because I was...we're thinking the same...the same thing of we have more questions than answers, but...

MS. MORALES: We do have more questions than answers. You know, as we were...obviously,

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we're new to the conversation. And so we're still...we still are trying to figure out quite a few things, but in reviewing the resolution that you passed earlier that was shared with us, along with the agenda, one of the questions I had was regarding the funding that you are...might be looking at. I think there's a piece about managerial and operations. In our experience in doing this for over 20 years, probably over 50 years combined between Blanca and I, there are no public funds available for the operation and maintenance of utility. Those will come strictly from the...from the rates. But one of the services that we provide at RCAC to entities such as this is setting up the right structure. A part of the...part of the testimonies that we heard were regarding the rates that you currently have and possibly, you know, maybe them being too low, or the fact that you have residential and commercial kind of combined rates. That is also some of the work that we do, is we work with the entity to separate and to make sure that the fairs are...that the rates are fair and equitable to the end users, and that you are charging accordingly and recovering accordingly for the true cost of water. This is specifically to the...to the domestic side. We work on the domestic side, not so much on the agricultural. We haven't really had any experience on the agricultural and setting up rates, but we certainly do on the...on the domestic side. Blanca, is there anything else you want to add?

CHAIR SINENCI: Okay. You know what, Ms. Morales, just hold up. Let's have...I'm just informed that VanScoy is on. And so we'll just have her open up with some comments, and then we'll open up all the questions to our presenters. So hold on real quick. Members, Ms. VanScoy is the Portfolio Manager for the Heron Foundation, and is an experienced fixed-income asset manager for over 20 years in community development investing. She has funneled more than \$6 billion in assets to community development funds. She is an expert on socially responsible environmental...sustainable initiatives, Community Reinvestment Act--the CRA--and impact investing. She created a proprietary software system that tracks, manages, and measures community development assets, investors, and social reporting metrics. Barbara also created one of the first healthy communities and green, environmental friendly, high credit quality fixed income portfolios. And Heron is a private foundation established in 1992. Its mission is to help people and communities help themselves by championing people, places, and enterprises who challenge broken conventions, support change in their individual community. VanScoy, do you want to provide some comments?

MS. VANSKOY: Yes. Good evening. Thank you so much. My...I...really, I am just here to listen and learn. I've been watching the...what you all are going through as a community, and the challenges that you're having with your water systems. I've been watching for several years. I'm kind of brought in with Shay and Ian Hodges, and really, as an investor, wanting to make sure that if there's anything that I can do to assist from the perspective of as, you know, you are looking for sources of capital and perhaps using the capital markets to help fund this, just to help offer guidance, suggestions, introduce you to people who may be helpful in the process. Just really excited about what you all are doing as a community, and the challenges and possibility that you have ahead of you. So just really listening and learning . . . *(inaudible)* . . the opportunity.

CHAIR SINENCI: Mahalo, Ms. VanScoy, for joining us this afternoon. Members, we've invited

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our resources today, and we have a couple questions for them. I can go ahead and start with just some general questions. Can they, or their agencies, help us develop a funding plan? What other technical services do they provide? What kind of funding is available for upgrading the East Maui system, and...including long-term capital improvements? We also wanted to ask about an engineering study of the system, and proposed maintenance and upgrade plans, a business model, general overview of funding sources, a watershed management plan. Do you have any of...speak to those things? Oh, also if you had any examples of other communities with old regional systems that was able to upgrade their system without causing huge rate increases, that would be great to hear about other communities that you've worked with.

MS. MORALES: Thank you for...thank you for the questions. We have experience working with communities on the development of the funding plans. That is very critical. I think it's part of what we do most every day with the communities that we work with. Call it the capital improvement plans. So communities prioritize the assets that they need to either replace or rehab. We work with communities also to set up reserve structures and...I mean reserve targets. And those are normally funded from the rate structures. And those help to address either short-term or long-term capital improvement plans. Asset management is one of the things that we do pretty regularly with utilities, once again to help manage the assets that the...that communities have, that utilities have. That is over short term and long term, and that helps prioritize, you know, what portion of the infrastructure can be funded from reserves or from rates, and what portion of the structure...the infrastructure needs to be funded from funding sources, Federal funding sources, State funding sources, and such. We have experience working with business...with communities on developing business models. Because one of the things that is very important for these type of entities is to make sure that they are sustainable over long term, you know, 5, 10, maybe even 20-year plans. The Federal overview, that's something that we work with communities on a regular basis to ensure that they...especially USDA and EPA funding. Those are two main Federal funding sources that we work with. Meeting . . . (inaudible). . . conditions, meeting any kind of funder requirements either before, leading up to the funding...to secure the funding, or after, once the funding has been obligated and the project has been completed. You know, especially if there's a loan component, we might...they might have to, you know, stay in the good grace of the Federal Government for many, many years to come, especially as they will continue to access funding over future years. Anything I might've missed, Blanca? Anything you want to add?

MS. SURGEON: I actually wanted to...I actually wanted to ask and clarify. You have...the whole entity is going to be irrigation and domestic water use, right?

CHAIR SINENCI: Yes.

MS. SURGEON: Yes. So usually, you know, there is different funding sources for each. And so for the domestic...and different plans too, for each. So at some point, you know, that's going to be probably in a...in a work plan, which is another aspect that we help is help you develop, you know, a strategic plan to get this project--it's an amazing, big project--completed, right, with a timeline and something like that. That's one of the

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assistance, and then the project management of something like this, this would be another, you know, type of assistance that we would provide. And then we would say these are the pieces that we can do, and this is the pieces...we will bring all types of resources like you already are bringing here.

MS. MORALES: And I'd like to go back to one question that you had, and that was regarding experience, or maybe a sample that we have from this kind of structure that we can share with you. And we do. I would be glad to share that with you, including the legislative language, the Charter, business plan, strategic plan, and all of those pieces. So a pretty extensive set of documents, but I think it would be a good reference...a good reference example for you to kind of look through it.

CHAIR SINENCI: Okay. Members, can you...can you hear me okay? I'm getting a message from Staff that they want to take a quick recess. Staff, how long a recess do we need?

MS. STEWART: Five or ten minutes should be fine, Chair.

CHAIR SINENCI: Okay. Members, did you want to take our mid-morning [sic] break and come back at 3:02? Okay. And then...

COUNCILMEMBER KING: Mid-afternoon.

CHAIR SINENCI: Sorry about that. And our resources, can you guys...is it okay if you guys stay on until 3:02 to continue? With that, the APT Committee meeting of May 31st is now in recess. . . .(gavel). . .

RECESS: 2:52 p.m.

RECONVENE: 3:03 p.m.

CHAIR SINENCI: . . .(gavel). . . Aloha and kalimera, and welcome back to the APT meeting of May 31st, 2022. It is 3:03 in the afternoon, and I just got word that Committee Vice-Chair Johnson is not feeling well; however, he is listening in on the meeting. Okay, Members. We just got a slide that Staff will share, and then I can open it up for questions from all of you. Go ahead, Ms. Stewart. Saling?

MS. SALING: Would you like me to comment? This is the map of RCAP and all of our six different regions. So if you ever were to see Great Lakes Community Action Partnership, that is actually RCAP, but just acting as...like in Great Lakes Communities Unlimited. So who you all would be working with is the Rural Community Assistance Corporation, RCAC, and they cover Hawai'i. So if there are any questions that I can answer around that...and I believe that we still have Olga and Blanca, should you have any questions regarding the technical assistance that RCAC could provide. Thanks.

CHAIR SINENCI: Mahalo, Maranda. Staff, could you stop screen share? And Members, if you did want to see the rest of the...Staff has shared it in...I did see a question from Member Paltin.

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COUNCILMEMBER PALTIN: Thank you, Chair. That was from before the break. So I'm going to see if I can remember it. It went kind of something like...this entity, Ms. Morales, Ms. Blanca, and Ms. Maranda, are you guys a similar entity as the Quantified Ventures, where it's like a business where you help us, or is it...are you folks more of a government entity? I'm not super clear.

MS. MORALES: Thank you. That is a great...

MS. SALING: . . .*(inaudible)*. . . Olga, go for it.

MS. MORALES: Thank you. We are a nonprofit. We're a nonprofit organization. All of the regions that make up the RCAP, including RCAC, we're nonprofit. We have been in existence since about 19...early '70s. So we have been doing this kind of work for . . .*(inaudible)*. . . We get funded by the Government, USDA, HHS, and EPA. So the services that we provide to the communities are at no cost to the community.

COUNCILMEMBER PALTIN: Oh, wow, that's awesome. And then, so I guess if your services are at no cost, and then we could...we could bring in the Federal money, not a private entity managing it could bring in Federal money, only the municipality can, not Canada or some other entity?

MS. MORALES: Right. So actually, under USDA, a private entity could apply for funding. They are...either USDA or State Revolving Fund, there are...they have the possibility to apply for funding. It would be strictly loan though. Municipalities or local governments have the ability to access grants. However, that is based on median household income. So that's another piece of the determination.

COUNCILMEMBER PALTIN: And then I guess going back, the relationship or the difference between you folks and Quantified Ventures, who presented to us the first time...do you guys work in concert with each other, or is it like a competition, or are they...are they a nonprofit as well?

MS. MORALES: I cannot speak for them. Are they here on the call?

COUNCILMEMBER PALTIN: That's...they presented to us last week, but you guys...you guys don't work with Quantified Ventures then?

MS. MORALES: No, haven't had the opportunity to cross paths with them, but you know, one of the things that we try to do is figure out the areas where we can minimize redundancy and build some efficiencies. So if there are things that they're already supporting you with, we really don't need to become involved there, but really we will maximize the resources available to you.

COUNCILMEMBER PALTIN: Oh, right on. Okay. Thank you so much. And then, you guys, as a nonprofit, you're funded by Federal grants as well? Or you got to eat, right?

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MS. MORALES: We got to eat, yeah. That's the bad habit we all have, yes. So we do get funded from USDA, EPA, and HHS. Those are the primary funding sources. In Hawai'i, though, we have been...we do have a State contract with the Department of...Department of Health, and we work with communities primarily on compliance issues. So we also have a contract with...in Hawai'i, the State...the State of Hawai'i, yes.

COUNCILMEMBER PALTIN: Okay. Thank you. I'll yield to my colleagues. I don't want to try to monopolize things.

CHAIR SINENCI: Great questions. Members, any other questions for our panel this afternoon? Member Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. I want to thank all of our presenters this afternoon. I'd also like to get some clarification, if you could share with us how you've helped geographical areas...island geographical areas such as Puerto Rico, and U.S. Virgin Islands, and other island communities.

MS. MORALES: Yeah, islands definitely have a set of challenges that are very unique to every island. And so part of what we do is we work...we have people that are on the ground. So we actually have people in the Big Island, and in O'ahu we have a couple staff. And we are in the process of hiring another staff member. So even though I...as Assistant Director, I direct, you know, work in multiple states, we have people on the ground that actually know the culture, understand the needs of the communities, the priorities, political point of views, and things like that. So we have people that are on the ground. And so that's...those are the people that normally we would work with or we would work through to...they would be the connection to the entity to be able to support them in whatever needs they have.

COUNCILMEMBER MOLINA: Okay. Thank you for that. And earlier in your responses to Member Paltin, you mentioned about how long, you know, you've been in existence. So do you have the grant writing staff that could be part of your services to us in terms of...for Federal funding and other sources of funding as well?

MS. MORALES: We have...we do have a grant writing department because, you know, we do go after funding ourselves to be able to continue to provide the services. We have, from time to time, offered training to communities that are in need of grant writing experience. The other thing that we do is we create other partnerships. So if we don't have the skill set that you particularly, in this case, might need to advance your project, we normally work with other entities, like council of governments or other entities that might be able to help with that. Our focus is primarily on the operational side. So we focus on financial, managerial, and technical to make sure that, you know, entities are staying in compliance and are able to deliver safe drinking water and/or wastewater services to their...to their customers. But yes, we definitely have a suite of enough skills to be able to support just about every need you might have.

COUNCILMEMBER MOLINA: Okay. All right. Thank you very much, Ms. Morales, for your

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responses. Thank you, Mr. Chairman.

CHAIR SINENCI: Mahalo, Member Molina. Go ahead, Ms. Surgeon.

MS. SURGEON: Yes, sorry. I wanted to add that, from what I'm hearing in the questions, it's...you have been searching for a private-public partnership, and that's great for a project this large, right? We need both the...you know, the partnership with the private sector to...for funding, the capital investments, and all that, and then for, you know, the project management, and getting the grants, and all that. So I congratulate you because you have been doing your homework and going in the right direction with, you know, private-public partnerships.

CHAIR SINENCI: Mahalo, Ms. Surgeon. Ms. VanScoy, did you want to make any comments at this time?

MS. VANSKOY: Not at this time. Thank you, though.

CHAIR SINENCI: Okay. Members, any other questions for our...yes, Chair Lee.

COUNCILMEMBER LEE: This can be for anybody. Could you tell me if you've helped to finance a water system or a water authority, or a public utility of some type? And how much did you help finance the project?

MS. MORALES: That's a very good question. We have been doing this kind of work for a very, very long time, both Blanca and myself. I cannot begin to name...I probably...on average I think there were...there were years that we were running about 20 to 25 projects that we were working with primarily on bringing infrastructure funding. On regionalization projects, which would be more align...in line with what you're describing, anywhere between, you know, 20 to \$40 million, depending on the need and the infrastructure. And we're talking millions of dollars for maybe five, six years ago, which in today's dollars would probably be closer to \$80 million. The projects that we've seeing have significantly escalated from the projects that we used to see a few years ago. So we do have a lot of experience bringing dollars in and working with entities to create a funding portfolio to, you know, develop projects. We also have a lot of experience working with...working with engineering firms on facing projects because a lot of very large projects are very different to get the funding...the entire funding for the entire project at once. So...

COUNCILMEMBER LEE: Okay, thank you. Thank you. Can I stop you right there? We have time limits on our questions. So the interesting challenge here is that it's not quite a private-public partnership at this point because the private partner is not really a partner. It's...we're...we have these ideas. They don't necessarily have the same ideas. So we are still moving down that road. However, we may be...because the private entity may not be willing to sell their property, which may include maybe over 150 properties...so we may be talking hundreds of millions of dollars because we have to condemn the properties in order to assume this project. So that's why I was asking you like, you know, how much did you pay...how much did you invest or help to raise funds

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for, because this one might be extremely expensive. And I'm assuming that a lot of these, the funding sources are for loans. Or are they for a mixture of grants and loans?

MS. SURGEON: Could I respond a little bit to that? Because I was talking to private-public partnerships in terms of funding. And so yeah, it was like bringing the private sector to fund the project or bringing the public sector to fund your project. That's what I was referring to. And because there is so much the...you know, the public sector can do, like all the grants from all the Federal Government, and State Government, and all that. But then, you know, investors will bring capital also, or would help, you know, raise capital, sell bonds, and all that for a project. Because you're right. That's what I was anticipating. This project is going to be millions and millions, that...that's the partnership I was talking about. It was for funding.

COUNCILMEMBER LEE: . . .*(inaudible)*. . . the project's investors Americans?

MS. SURGEON: Probably --

MS. VANSKOY: Yes.

MS. SURGEON: -- Ms. VanScoy can talk about that because I think that's where she...her expertise would come in. Am I right?

MS. VANSKOY: Yes. Largely, what you're looking at is institutional investors. Although given, you know, your community focus, certainly there could be people from your community, retail investors. They're not going to be able to bring about the scale that you need, which is why you would need institutional investors, larger investors such as...you know, such as foundations such as mine, or other banks, mutual funds, corporations. And they could be both domestic, if you're talking accessing tax exempt bonds, which are...is going to be a lower cost of capital for you if you can actually issue tax exempt bonds. If you issue taxable bonds, it's going to cost you a little more, but it...then it could open it up to international investors. And certainly, European investors right now are very, very interested . . .*(inaudible)*. . . municipal bonds because of both the financial profile and also, especially for this project, the social and environmental characteristics associated with it. I would imagine that there would be a tremendous amount of investor demand for this, which would then bring down what the cost of capital for the project would be.

COUNCILMEMBER LEE: Okay. Thank you. Thank you very much.

CHAIR SINENCI: Mahalo, Chair Lee. And just to be clear, Members, we're not talking about purchasing the land. We're talking about...this is not about any land sales. It's about the system that we're trying to acquire, not those land properties. Member King.

COUNCILMEMBER KING: Chair, but aren't we talking about leasing the lands?

CHAIR SINENCI: Yeah, the leasing of the land. But we're not...we're not planning on purchasing land.

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COUNCILMEMBER KING: Right, okay. So thank you for that clarification.

CHAIR SINENCI: Yeah.

COUNCILMEMBER KING: My question, and I'm not sure if anyone here can answer it, is in this type of situation...and I'm not sure what we're talking about, Chair. Maybe you know the parameters of what kind of money we're talking about for leasing. You know, is it hundreds of thousands per month? Is it millions? Is it tens of thousands? But my question was going to be, if we know the...one, if we know the parameters of what we might be looking at as a monthly lease or an annual lease; and two, is that something that infrastructure funds that...you know, these Federal infrastructure funds could be used for? Because I'm not sure if leasing is something that they can be used for. I don't know who to ask that question of though.

CHAIR SINENCI: Yeah, Miss...oh, I know that Mr. Hirokawa was...I mean, the State could potentially not charge us for the lease.

COUNCILMEMBER KING: Oh, okay. So we're not...okay. So that...the amount is in question, but...okay. So if there's not an amount that we...or not a significant amount that we're going to be paying, then it's not really that big . . .*(inaudible)*. . .

CHAIR SINENCI: That's right.

COUNCILMEMBER KING: It's more putting together the entity that would own the lease and...is that what we're talking about as far as a public-private partnership? Or we would just have the County own the lease?

CHAIR SINENCI: Yeah, the lease...the leases are free.

COUNCILMEMBER KING: Okay, but...and that would be in the name of the County? Is that what we're putting on the...what we're proposing to put on the ballot, to put the...to make the County the lessee?

CHAIR SINENCI: Correct.

COUNCILMEMBER KING: Okay. And I'm not...you know, I don't know what...I guess I would also ask, if there's a Corp. Counsel on or one of our own attorneys, if what we heard earlier was possible as far as creating such an entity by ordinance. Does anybody here know? Is there any legal minds on the call that know?

CHAIR SINENCI: Yeah, we can...Member King, we have a Corporation Counsel on for the second item. So...and we do have a second item, Members. So if you can...I believe some of your questioning will be directed to them. That's why we brought them on to...

COUNCILMEMBER KING: Okay. So we're still talking about funding issues right now?

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CHAIR SINENCI: Correct. This is just about...

COUNCILMEMBER KING: Okay. And basically, the funding is the...I'm assuming it's going to be maintenance, repair, and operations? That's the kind of...that's what we're talking about as far as funding?

CHAIR SINENCI: Correct. And the idea of putting it under the County is that now the County can apply for these Federal grants and funding that a private entity cannot, even though Ms. Magalo (*phonetic*) said that some private entities can. The majority of grant funding out there is just for municipalities, like the County. So those are the reasons why we wanted to put it as a County agency.

COUNCILMEMBER KING: Right. Okay. So can I ask Ms. Morales--and maybe you know the answer to this--that if it is...if the lease is owned by the County, and the County contracts out to a community-owned business, which we've discussed in the past, to actually do the management, have you done a model like that before?

MS. MORALES: Yes, we have. Yeah. Councilmember King, we have. It's...one of the models that we do all the time is --

COUNCILMEMBER KING: Oh.

MS. MORALES: -- sometimes the entity doesn't have the ability to manage...to do...to operate their own entity, so they contract it out. They contract out the services for operation and maintenance. That's very common.

COUNCILMEMBER KING: Okay. So if we were...is it common to put together a community-owned business to do that kind of management versus just looking around for an entity that already exists?

MS. MORALES: In most cases, we just would probably engage into a contract with an established entity that already has the capacity to provide those kind of services. That's a very common practice.

COUNCILMEMBER KING: Okay. Because I don't know that anybody on the island actually...you know, any entity that actually has that ability to do that who's not already involved in, you know, the company that's running the system right now. So we've discussed in the past with the Chan Hodges about the...you know, creating a community-owned business and then...you know, that's truly an ESG model, I guess, that would actually manage the system. But we don't...you...go ahead.

MS. MORALES: If I may just say, the other thing that happens as a result of creating economies is--because that's really what you're doing, is creating economy as a skill--is that you hire your own staff to be able to provide those services. And then they are employees of the authority or the County, however you want to set that up.

COUNCILMEMBER KING: Okay. All right. Thank you, Chair. Thanks for the leeway.

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CHAIR SINENCI: And Members, this would be a good time to transition to our next item. It looks like some of your questions are going towards...for our legal counsel. So with that, Members, if we can move on. Chair Lee, did you have a question about funding sources?

COUNCILMEMBER LEE: Not funding sources. I think the funders need to know that this is a private delivery system. You know, we're talking about a lease, but we're also talking about a private delivery system owned by private people, private companies. So we need to get that straight in terms of what's being financed by whom, are we having a partnership, or is it going to be some kind of condemnation involved? And as difficult it is to get representation from Mahi Pono, I think we're going to have to insist on it because we need to hear from the other side. We hear only from one side, and nothing from the other side. And I know it's because I guess they're reluctant to come forward, but they need to come forward. Thank you.

CHAIR SINENCI: Mahalo, Chair Lee, for the questions. And Staff is taking in your questions. So we can go ahead and forward your questions for more answers, and we can present that at a later date. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. My question is for Ms. Morales. Okay. So the system that you're part of is the New Mexico Rural Water Association?

MS. MORALES: No, it's the Rural Community Assistance Corporation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification. Earlier, in response to Member Paltin's question, you said that there's funding available, but not for maintenance and operations. So it would be available for capital improvement projects?

MS. MORALES: Correct, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. That's it. Mahalo, Chair. Oh, and the leases that we're talking about are water leases, not land leases, right? Water leases? Um-hum. Okay. Mahalo, Chair.

CHAIR SINENCI: Mahalo, Member Rawlins-Fernandez. Okay, Members. We've still got one more item to go. Committee Vice-Chair, did you have a question?

VICE-CHAIR JOHNSON: Thank you, Chair. No, I don't have a question at this time. Mahalo.

CHAIR SINENCI: Okay. Thank you. Okay. So Members, we've been cognizant of your questions, particularly with potential funding sources for the proposed water authority. So we want to make sure that your questions were addressed today. And so with that, we did want to thank Ms. Barbara VanScoy, Ms. Saling, Ms. Surgeon, and Ms. Morales for joining us today and staying up late from where you're coming from. And then we'll definitely keep in contact with you and follow up with some of the other Members' questions. Thank you, Maranda.

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MS. SALING: Thank you. Bye.

CHAIR SINENCI: Aloha.

MS. MORALES: Thank you. Aloha.

CHAIR SINENCI: Okay. With that, Members, without objection, I will now defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER pending further discussion.

CHAIR SINENCI: Okay, great. Okay. Great questions. I know we were kind of going off track, but hopefully, with Corporation Counsel, they can address some of your questions.

**ITEM 1(6): PROPOSED CHARTER AMENDMENT TO ESTABLISH THE
EAST MAUI COMMUNITY WATER AUTHORITY**

CHAIR SINENCI: Moving on to our second item--and I did want to make sure that we get to the recessed GREAT meeting after this meeting--Proposed Charter Amendment to Establish the East Maui Community Water Authority, APT-1(6). Members, in accordance with Rule 7(A)...7(B), excuse me, of the Rules of the Council, the Committee intends to discuss a proposed Charter amendment to establish the East Maui Community Water Authority Board, including the organizational structure, duties, and operations of such an entity. So for today, Members, I've submitted onto Granicus a memo from me with the answers to all of your questions that were posed during the last meeting. Staff can either share that Granicus number or link. And then we also have a short PowerPoint to get you started. And then we've got our...and then we'll invite our resources and Corporation Counsel for a Q&A session, including a revised resolution that we will be presenting at the GREAT Committee meeting next week. Okay. Staff, could you go ahead and share the PowerPoint? Okay. Mahalo. E 'Ola I Ka Wai. Next slide, please. Slide 2, Ms. Stewart. Thank you. Okay. Why a County Managed System as a County administrative agency. I will just do a brief review of...I mentioned earlier a Water Authority . . . (inaudible). . . receive Federal funding that private companies cannot apply for. The Council approves all inter-governmental agreements. Unlike a PUC, it keeps this authority under the Council's purview, where the Council can review engineering reports, business models, and financing studies. The Council would also retain approval of the annual operational budget, water allocation agreements. The Council would set water rates. Council would retain approval authority of any legal actions. Slide, please. Staff, did we miss slide 2? Go back to slide 2, please. Yeah, thank you. Okay. Just for a quick review, Members. As we heard at last week's APT meeting, we heard from the Department that there's just not enough water for farmers and ranchers during extended drought periods. We cannot fulfill the Upcountry water meter list due to the lack of water ability. The Department cannot take the full amount under the EMI agreement due to the lack of water in the ditches, also due to drought. Also, we know that the system is in disrepair and leaking. Current leaseholder has no

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plans to upgrade the system per the environmental impact statement, EIS. We also anticipate that should the State appraisal go through, current water rates will increase with new...with the new lease agreement. Other things that are uncertain for us to consider: current leaseholders have 50 percent interest, both in East Maui Irrigation and Mahi Pono; Mahi Pono's Holdings LLC is the sole investor and the only...is one of Canada's largest pension fund managers, public sector pension investors; the approval of a 50-year lease of Maui County's water resources puts those resources for...and we put 50 years only because even though it's proposed 30, the last time they asked for the lease, it was an ask for 50 years. And so we put the maximum on here. That would include a large amount of Maui County's water resources to be controlled by both a foreign and for-profit investor. And finally, this is...the County has a once in a lifetime chance to apply for these long-term lease through an intergovernmental agreement, as was proposed by . . .(inaudible). . . Next slide, please. Okay. And just a review of the Water Authority Board duties. The Water Authority...the proposed Water Authority Board would review and approve watershed management plans, would comply with existing CWRM instream flow standards and State and Federal regulations, including the Department of Land and Natural Resources and the Army Corps of Engineers. The board would hold community meetings. They would review long-term capital improvement plans. They would review annual maintenance plans, an annual budget, and all deemed source plans. They would also review water allocation and provide recommendations. And number 8, they would provide an annual evaluation of the administrator to the Mayor and to the Council. Okay. Mahalo, Members, for allowing me to use your mugshots. This was a question from Member Molina at our last week's APT meeting. What are the estimated costs for the creation of the Water Authority? And these are answers that we got from Corporation Counsel, and they're also in the Granicus that we had posted. The first step would be to implement the water...is to hire an administrator. Of course, this would be the position salary, fringe benefits, office space, equipment, board secretary and/or assistant. Ongoing costs would include systems operations, maintenance, staffing, to be funded through water rate revenues. Long-term system upgrades to be funded by public and private grants and financing mechanism. Next slide, please. The question was asked by Member Paltin. What is the relationship between the proposed Water Authority and the Department of Water Supply? The proposed East Maui Community Water Authority is a separate agency under the County Administration. The leases are for access to water in these license areas. The East Maui system is a wholesale regional water catchment and delivery system, provides water to the Central Valley fields currently in cultivation by Mahi Pono, and to their subcontracted users, and to the County Kamole Weir Water Treatment system. Member Paltin also asked, what are the duties of existing Board of Water Supply and the proposed East Maui Community Water Authority Board? Is there any relationship between the two? Corporation Counsel said the duties of the Board of Water Supply are to advise the Department of Water Supply. Duties of the East Maui Community Water Authority Community Board are to review and adopt the watershed management plan, and to advise its administration. There is no relationship between the two boards. Next slide, please. Member King asked if the East Maui Community Water Authority Board is a private or public entity. They responded, the board is a County board that follows the Maui County Charter...boards and commissions Charter requirements. It is a public board with four seats appointed by the Mayor and seven

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seats appointed by the Council. The Maui Community Water Authority is a public agency directly under the County. Also added, the Council does not have the ability to create public companies or other private or solely community entities. The Water Authority is set up within the existing County structure, as provided by the County Charter. Next slide, please. Chair Lee asked a couple pertinent questions. Will the Water Authority have precedence over the State? Where does their authority end and the State begins? The East Maui Community Water Authority will operate under the same regulatory structure as the existing leaseholder. The proposed Charter amendment does not impact CWRM's regulatory authority over setting instream flow standards or the DLNR's regulatory authority. And then, at this time, I did want to go ahead and invite our Corporation Counsel just to answer a couple of Chair Lee's other questions. How do we hold the people accountable if they are not elected and they are just appointed? How are they going to hold them accountable? Or hold on, we do have that answer from them. Oh, Mr. Rowe, you want to answer that?

MR. ROWE: I can. I think Keola might actually be taking the lead on this section.

CHAIR SINENCI: Okay, great. Mr. Whittaker?

MR. WHITTAKER: Thank you, Chair. So whoever appoints the person to the board would have the authority to remove them from the board. So that would be the check on them. So if Council approves that person to the board, they can remove them; same for the Mayor. The power to put them on the board implies the power to take them off.

CHAIR SINENCI: Okay. Thank you, Mr. Whittaker. And then what was the...Staff, what was the second question on the slide?

MS. STEWART: One moment, Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Eminent domain. It was about eminent domain, Chair.

CHAIR SINENCI: Oh, okay.

MR. WHITTAKER: I think I remember the question, and the answer...the answer is, it is our recommendation that the power of eminent domain remain with the Council. So this authority would not have its...you know, they could recommend condemnation, but you know, it's ultimately the Council that would have the County's authority to provide the money and initiate that process.

CHAIR SINENCI: Okay. Mahalo, Mr. Whittaker. At this time, Members...Staff, can you stop screen share? I'd like to go ahead and call upon Director Baz, if he's available, for some comments.

MR. BAZ: Hello, Chair and Members. I've been listening to the conversation, testimony, and...well, tried to listen to it while I was multitasking, but I think one of the biggest things is...just repeating some of the comments from last week, is that if we're going to

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amend the Charter, which is a significant item to do, I would recommend that we do this more on a Countywide, global scale there for us to be able to enact different areas, districts, or authorities, whatever we want to call them, as needed in Code. So we can go on from there, Chair, and I can answer questions if the Members have them.

CHAIR SINENCI: Okay. Thank you. We did have an organizational chart to share. Maybe Director Baz, you could speak to...Staff, do we have the organizational chart?

MS. STEWART: Yes, Chair. One moment.

CHAIR SINENCI: Then, Members, while we're waiting, we also invited Lucienne de Naie and Mr. Jonathan Scheuer to be part of this conversation. So if you have any questions for them, they're available. So under Rule 18(A) of the Rules of the Council, I'd like to designate them as resource personnel if there are no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Okay. Thank you, Members. So this was where the Water Authority would fall under the Department of Management. Director Baz.

MR. BAZ: Okay. So Chair, in general, the Departments in Section...Article 8 of the Charter do fall under the authority of the Managing Director for oversight. It wouldn't necessarily be...I mean, this says here Department of Management, but it's really under the Managing Director and his authority.

CHAIR SINENCI: Thank you for that clarification. Okay, Staff, you can go ahead and stop share screen. That is also available on Granicus, Members. Then before we go to...oh, go ahead, Director Baz.

MR. BAZ: And Chair, as you recall last week, that's why I mentioned...once I read through the proposal, why my comments were that it would be basically creating another Department. Whatever, you know, agency, authority, Department, whatever you want to call it...structurally it's basically another Department within the County.

CHAIR SINENCI: Okay. Thank you, Director Baz. And are you able to stay on for questions if the Members have any?

MR. BAZ: Yes.

CHAIR SINENCI: Okay, great. Thank you. Okay. So with that, Members, before we open up for questions, we've invited Deputy Corporation Counsel Richelle Thomson, who is on her vacation, but was willing to stop in with us and join our meeting this afternoon. So Ms. Thomson, did you want to go ahead and provide some comments?

MS. THOMSON: Hi, Chair. Can you hear me?

CHAIR SINENCI: Yes, we can hear you. Go ahead.

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MS. THOMSON: Okay, thanks. Just figured out how to do this by phone. Thanks for the opportunity, Chair. I don't have any direct comments at this point. I think there may be some...a little bit of still, you know, trying to figure out exactly what this new Department will do, you know, under the proposed Charter amendment, and what it can't do. Also, I think that it may be valuable to have Keola explain the differences between the water rights lease, and then what may be needed to control various sections of the ditch system, or delivery system. Also, I think one of the things that I heard...I don't know that the Committee Members are unclear about this, but it sounded like some of the other participants...is that the delivery of water won't be going to the general public. It'll be going to the Department of Water Supply, and then other large users, similar to how the County is a recipient of the current lease situation. But, you know, I'll withhold comments...any further comments and just maybe respond to questions if they come up.

CHAIR SINENCI: Okay. Mahalo, Deputy Thomson. And Members, just as we did over the past few months, we worked with OCS attorneys, Corporation Counsel attorneys. So we've been working to craft a more practical and workable Charter amendment. And during the last two weeks, Corporation Counsel has reviewed the resolution, and provided some clarifying language, and made some suggestions. Mr. Whittaker, did you want to speak to some of those questions?

MR. WHITTAKER: Sure. I'm happy to answer any questions, and thank you so much for working with us. We recommended, you know, quite a few revisions, and most of them are reflected in the...in the revised draft. The...I guess our only remaining concern, and it's more of a policy issue than a legal concern, is including all of the requirements for the administrator for the water authority. There are quite a few of them, and it doesn't provide you with some wiggle room if it's in the Charter. But if it's done by ordinance, and there's somebody that doesn't meet...that meets most of them, but not all of them, you know, you could still hire that person. So I guess...one recommendation that was not taken...you know, that's just one to throw out there, is to put those requirements in an ordinance so that they can be changed easily if necessary.

CHAIR SINENCI: Versus putting it right into the bill, yeah?

MR. WHITTAKER: Right, versus putting it into the Charter. It's obviously more difficult to change the Charter.

CHAIR SINENCI: Yeah. Members, with that...just look at hands. Member Paltin, questions for our Corporation Counsel or resources.

COUNCILMEMBER PALTIN: Thank you, Chair. I guess for Mr. Whittaker, if this Charter amendment is necessary in order to set up a water authority, could it be made to just set up a water...a Community Water Authority, and then therefore be used for any community...any specified community, and specify the community by ordinance?

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MR. WHITTAKER: I think I understand your question, but let me speak to it generally, and then specifically answer it. So I think...and I think Member King asked a similar question, which is, if this could be done by ordinance or if it has to be in the Charter. And it sort of depends what you want to do. So under the current Department of Water Supply authority, they can enter into these leases...into these leases now. By ordinance, you could set up a community board, which seeks community advice to advise Department of Water Supply. However, if you wanted to create a separate authority, which is what this does, that takes some of the powers away from the Department of Water Supply, that's what requires a Charter amendment. I hope that answers your question. I think specifically, your...you asked also can you create something more general and have different community boards, and that would be possible as well, as long as the authority for the Department and...the Water Supply and the Authority are specified so they don't overlap.

COUNCILMEMBER PALTIN: So like, I mean, as West Maui pursues ground and surface water designation, and we anticipate Governor Ige not changing the rules of the game midstream, then we could pivot as well and go the Water Authority route if it was more broad and didn't specify East Maui Community Water Authority?

MR. WHITTAKER: You could certainly do that. That's getting into the realm of really the Department of Water Supply that manages all the water. So if you have separate water authorities, then you're really creating separate Departments for each area. You could...you could do that, but it may not be necessary. Or you could do, by ordinance, a community advisory board that advises the Department on those issues.

COUNCILMEMBER PALTIN: Oh, okay. So I think I'm misunderstanding because I thought the Department of Water Supply only regulates County water. Is that the same for a water authority? Would it only oversee County water and not private water?

MR. WHITTAKER: Yes, that's right. So this water authority...the purpose of this would to...be to obtain a lease from BLNR for the East Maui water, and then manage that distribution. And one of the entities...and this is what I'm understanding the purpose of it is...one of the entities to which it would distribute the water would be to the Department of Water Supply, that would then distribute it to residents. It may also sublease part of that to an entity such as Maui Pono...or Mahi Pono, sorry. Different organization.

COUNCILMEMBER PALTIN: Okay. I guess I was confused on that because only...this would only apply to Government leases, County water, and BLNR, then?

MR. WHITTAKER: Right. So this authority would obtain a lease for the water from the State BLNR.

COUNCILMEMBER PALTIN: Okay. All right. Thank you. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. Did...Ms. de Naie wanted to also comment on that. Then I'll go to Chair Lee, and then Member Molina.

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MS. DE NAIE: Thank you, Chair Sinenci. Yeah, this has been interesting to listen in on. I did not understand the type of system that actually we are talking about, and we're not creating systems. It's not like we're buying anyone else's system. Most of the system is on public land. I think it's important . . . *(inaudible)*. . . mind for East Maui. That's not true in Nā Wai 'Ehā. That's not true in West Maui, but for East Maui . . . *(inaudible)*. . . 3,000 acres of public land that these leases are for. So leases of public land. Ha'ikū doesn't have any public lease. This is only about public land and the leases of public land. And so it's important to understand what happens. And I think your Corp. Counsel has described it well. Basically, a system exists. I think you folks have heard presentations, but maybe not recently. This system does not actually belong to EMI exclusively. The State or another Government entity could exercise use of the system. I'm not sure if any payment would be absolute for that use, but you...there are some companies who are very specialized in this area, and you know, I've been told again and again by a number of attorneys that the nature of the leases were, for a number of years, the assets on the State lands, i.e. these ditch systems actually become the State's. They don't tax them. Now, there's some sections of the ditch systems that the County may want to use that . . . *(inaudible)*. . . public land. So that would need to be analyzed. And whether there would be very, very high cost to obtain those . . . *(inaudible)*. . . see how you could get a very, very high cost for a very old system on unimproved land. Mahi Pono paid 5 million.

CHAIR SINENCI: Lucienne, you're...

MS. DE NAIE: Yes.

CHAIR SINENCI: Ms. de Naie, you're coming in a little bit choppy.

MS. DE NAIE: Oh, I'm sorry. Let me...let me plug in, if I might. Maybe you want to go to Mr. Scheuer.

CHAIR SINENCI: Yeah, I'll come back to you.

MS. DE NAIE: Okay.

CHAIR SINENCI: Yeah, I'll come back to you. Chair Lee, you had a question. You're muted.

COUNCILMEMBER LEE: Keola Whittaker? Is he still there on the line?

MR. WHITTAKER: Yes, Chair, I'm here.

COUNCILMEMBER LEE: Okay. I just wanted you to make a distinction between having a lease, a long-term lease, and using the delivery system. Because as far as I know, when you have a long-term lease, you're not necessarily entitled to the delivery system. That's separate. And as far as the delivery system being on State land, my understanding is that a huge portion of the land is privately owned, from Honopou to Kamole Weir. It's a very long distance that the system traverses. So can you make a distinction between leasing water and using the delivery system?

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MR. WHITTAKER: Yes.

COUNCILMEMBER LEE: In other words, when we lease the water, are we entitled to use the delivery system for free?

MR. WHITTAKER: Yes. Thank you, Chair. And I see my colleague, Caleb Rowe, hopping on because he is our designated expert on everything having to do with the ditch system and delivery system. So I'm going to defer to him if that's okay.

COUNCILMEMBER LEE: Sure.

CHAIR SINENCI: Mr. Rowe. You're muted.

COUNCILMEMBER LEE: You're muted.

MR. ROWE: Sorry about that. Can everybody see me okay? It's showing up as kind of pixilated on my end.

COUNCILMEMBER LEE: A little blurry.

CHAIR SINENCI: We can hear you.

MR. ROWE: Okay, hold on. Let me...

COUNCILMEMBER KING: Caleb, your picture's really blurry. Oh, there it goes. Now it's good.

MR. ROWE: Yeah, for some reason I had the background blur thing, but it wasn't showing me. So...yeah, so there are some good points that Member Lee made. The ditch system does transverse the four license areas that are the...are the subject of the long-term leases, and currently are the subject of revocable permits for those leases. There are portions throughout the system that do fall onto private land, whether it's owned by...some of it's owned by Alexander & Baldwin, and some if it's owned by East Maui Irrigation Company. And Ms. Lee is correct that there's a large portion from the end of the final license area, the one that's closest to Ha'ikū, that flow...that takes water directly to the County of Maui's Kamole Weir system. That falls both on EMI and on other additional private land. So as for what that means, that kind of depends on the willingness of EMI and A&B to enter into some sort of operating agreement whereby, you know, they either give us an easement over those portions of the ditch, we enter into agreement and pay them for uses of those portions of the ditch, or we inversely condemn...or yeah, enter into condemnation proceedings in order to take portions of the ditch system that connect to the...well, that...I guess, that connect the distribution system fully, as well as assure that there's direct access from the license areas to the County's distribution system.

COUNCILMEMBER LEE: So this water authority wouldn't have authority over other water flowing through, let's say, farmers and other people on the system? We would have

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control over the water coming into our system, a County system?

MR. ROWE: Right. So the lease basically allows us to access areas of State land in order to take water from the stream for distribution and delivery. However, as I said, that distribution system, part of it does rely...or does flow through privately owned lands. That is correct.

COUNCILMEMBER LEE: Thank you.

CHAIR SINENCI: Mahalo, Chair Lee. Committee Vice-Chair Johnson or Member Rawlins-Fernandez? Oh, and Member Molina has a question.

COUNCILMEMBER MOLINA: Yeah, Chair. I think I was after Chair Lee, if I'm correct. Sorry.

CHAIR SINENCI: Oh, go ahead. Go ahead, Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Mr. Chair. Just a question maybe for you or maybe Mr. Whittaker with regards to the terms of the members on the authority. I guess we're going to have to do it maybe the same like we've done with other boards, where it's, I guess, staggered initially. And how will that determination be made as to who gets like a one-year term, and then a three-year term, and so forth? Is it going to be done by lottery, Mr. Chairman, like what we've done in the past? Is that your focus initially?

CHAIR SINENCI: I see...I see...it looks like they did answer. Boards and commissions: Unless otherwise provided, the members of all boards shall serve for a staggered five-year term beginning on April 1st and ending on March 31st. But I can refer to Mr. Whittaker as far as the...

COUNCILMEMBER MOLINA: The process to determine who's going to get the one year, and two year, and so forth?

CHAIR SINENCI: Yeah.

COUNCILMEMBER MOLINA: Okay. If we could just get additional clarification on that. Appreciate it.

MR. WHITTAKER: Sure. Thank you, Member Molina. It's a good question. So under the default provision in 13.2, boards that are nine member boards, there's a...there's a provision in there to stagger their initial term. However, this board is going to be 11 members. And so we recommended additional language, which was put into the most recent revision that Gina sent me, which provide for the staggering of the terms. Now, you ask a good question. How is that going to be determined? That's not in the Charter amendment. So I presume that, you know, once the Council receives the, you know, Mayor's appointees, and you have your own appointees, that there's some sort of process, perhaps by lottery, to determine who has each term.

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COUNCILMEMBER MOLINA: Okay. All right. Just wanted to get that clarification on record. So...all right. Thank you, Mr. Whittaker. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Molina, for that question. Other questions? Committee Vice-Chair Johnson or Member Rawlins-Fernandez?

VICE-CHAIR JOHNSON: Thank you, Chair. My questions have been answered. Mahalo.

CHAIR SINENCI: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I have no questions at this time.

CHAIR SINENCI: Okay. Members...okay. So Members, we've also heard from the public during last week's testimony, from the...you all, Members who reviewed the resolution. So in response to that, we updated the resolution's language for clarity. And so we will be presenting an ASF in the GREAT Committee meeting of next week. Staff, did you want to share the ASF? But before I do, I did...sorry. My apologies. I did want to refer to Mr. Scheuer. We did invite him to provide some input. Mr. Scheuer?

MR. SCHEUER: Aloha, Chair and Members. Really, at this time, given the evolution of your discussion, I'm just happy to answer any questions I might be able to answer, specifically as to DHHL's particular interests regarding State water leases in general, and this East Maui lease in particular. But also because of my familiarity with it, I may be able to answer some other questions as well. Mahalo.

CHAIR SINENCI: . . .*(inaudible)*. . . Dr. Scheuer. Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Jonathan. Good to see you again. Can you just comment on, you know, setting up this authority, like geographically specific versus like making a Maui County Water Authority? Which, you know...because it's going to take a lot of funding, a lot of County funding, to get this set up, and all of the taxpayers in the County are going to be paying for it. So just want to get your thoughts on that.

MR. SCHEUER: Thank you very much. And if I may, Chair, I...my thought is that I would generally agree with the advice of Mr. Baz that if this is something that might be potentially useful in the future, for instance addressing the concerns raised by Councilmember Paltin or others, it's a little bit easier to simply give authority in one swoop. If there's a concern that in that broad authority that East Maui issues might be lost, I think it's possible to craft language that would say the County's authorized to create an authority for East Maui and any other areas that might be benefitting from such.

COUNCILMEMBER KING: Okay. Then...and do you agree that...I mean, it sounds like we got opinion from Corp. Counsel that this does need to be a Charter amendment. So would you agree with that statement, versus an ordinance that we could create separate from the Charter?

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MR. SCHEUER: The most analogous entity in my experience was when I worked for the Office of Hawaiian Affairs, we created a series of limited liability corporations to own and manage real property for the benefit of Native Hawaiians. It's always better to have clear, specific authority granted to you by the Charter to do this. Even if it's possible to do this without a Charter amendment, I think it's okay to say like the Charter specifically authorizes the County to create these authorities for these particular purposes.

COUNCILMEMBER KING: Okay. And then...and then just...it sounds like we're beyond this issue, but just to get your opinion on this as far as us creating this authority that would direct the waters...you know, it would have the authority over CWRM to direct where the water goes.

MR. SCHEUER: The water...Commission on Water Resources Management, or CWRM, has exclusive and final authority over implementation of the Water Code. The authority created by the County would have the ability, under water leases and other agreements, to deliver water only for the amount of water not covered by existing interim instream flow standards, IIFs, or other CWRM restrictions. So you're not supplanting the County's authority. You're stepping into the role of the utility deliverer, currently EMI, rather than the role of the Water Commission, as I understand the construction of the proposed amendment.

COUNCILMEMBER KING: Okay. But it is conceivable that the Water Authority could work with CWRM to, you know...to make sure that the needs of the County are being served?

MR. SCHEUER: Historically, they're...having appeared in front of the Water Commission for a quarter century, the relationship between the Water Commission and Counties has been more constructive and more collaborative than it has between the Water Commission and private entities.

COUNCILMEMBER KING: Okay. All right. Thank you. Thanks so much for being here. Appreciate your input. Thank you, Chair.

MR. SCHEUER: Happy to be here.

CHAIR SINENCI: Mahalo, Member King. Mr. Rowe, did you want to chime in?

MR. ROWE: Yes. Regarding the ordinance question, I believe, as Mr. Whittaker stated, it would be able to create, you know, an advisory board, but not necessarily with the same sort of powers that we're looking at this particular entity to have. Under the Charter, the Water Department has exclusive authority over the water resources of the County. So because this would be a water resources...resource of the County, it would still fall under the Department of Water's purview unless we did it through Charter amendment. And as far as the issue regarding the Commission on Water Resources Management, Mr. Scheuer is absolutely correct that we would still be subject to those. And there are a couple things in particular that we would still be subject to. It's not a management area. So we don't need kind of independent lease or...you know, independent leases for

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every end user. However, as he said, there are interim instream flow standards that require a certain amount of water to be kept in streams. So the amount that could be taken from those streams would be limited by the IAF...IIFS. In addition, the...CWRM has exclusive jurisdiction over diversions. So you know, the...if the County wanted to either fix any diversion, or move a diversion, or remove a diversion, it would also need to apply to the Commission on Water Resources Management. So those are still areas where the new authority would be subject to CWRM control.

CHAIR SINENCI: Mahalo, Mr. Rowe. Dr. Scheuer, did you...go ahead.

MR. SCHEUER: If I may, Chair, just in reference to the excellent questions from Chair Lee regarding the ownership of the system versus the water leases, I have been told numerous times that at various times, when first the Kingdom, then the Territory, and then the State leased water to East Maui Irrigation, there were reversion clauses that actually allowed the infrastructure to revert to the lessor at the termination of the lease. I'm unaware of the full documentation of this. All I just want to say is it's an open question as to whether or not those interests would have to be acquired, or they may already exist and are controlled by the State, having received them at the end of previous iterations of the lease. It's a matter to be investigated.

CHAIR SINENCI: Yeah. Thank you, Dr. Scheuer. I've also heard of that too. I did want to go back to Lucienne if she's still there, or if we lost her. De Naie, are you still with us?

MS. DE NAIE: I am.

CHAIR SINENCI: Oh, okay. We can hear you. Go ahead. If you have...

MS. DE NAIE: Yes. I put on...I put on some earphones. Yes. Well, actually, Dr. Scheuer and the Corp. Counsels have covered a lot of the things that I wanted to bring up. And it's true. There is a section of the ditch system that leaves the lease area, that would not be subject to the lease area, that passes through Ha'ikū and goes to the County treatment facility. And access of water through that area would need to be negotiated. They'd have to look at condemnations if they felt long term that it would make more sense for that particular . . .*(inaudible)*. . . ditch to be under County management. But I would like to speak a little bit to how partnerships might exist within the Water Authority. For instance, we have watershed . . .*(inaudible)*. . . right now that work with a combination of private and public funds to do needed projects in our watersheds. So . . .*(inaudible)*. . . of watershed protection would be a part of this water authority. There would be opportunities through private foundations, private companies. So this isn't like corporate control. This is like charitable contributions to do specific projects within the lease area on public lands. . . .*(inaudible)*. . . fencing, these could include projects to reforest with native plants. It could include engineering pilot projects to see if outcomes for wildlife could be improved by modifying some of the intakes so that they still take water, but they don't interfere with wildlife migration. So there's a lot of very, very interesting things the water authority could look to a private entity . . .*(inaudible)*. . . having partnerships and funding needed things that wouldn't have to come from taxpayer funding. And right now, there's absolutely no system for that in place, and

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those of us who would love to see things tried to improve our own watersheds, we have to go and look for grants like the folks from Canada. Really wonderful to sort of have the County on our side at this point. And I think it'd be great for folks on the West side, if those systems eventually were managed by a water authority, to have that same option, which just doesn't exist now. I see this as . . . *(inaudible)*. . . of opportunities to care for something that is part of our common legacy. Thank you.

CHAIR SINENCI: Mahalo, . . . *(inaudible)*. . . Okay, Members. I am aware of the time. And before...and I know that we have a 5:00 recessed meeting, the GREAT meeting, but I do want to give some time...a break. But before we adjourn, Staff has shared the proposed ASF that we will be proposing next week in the GREAT Committee. And this is after having discussions with the Department of Corporation Counsel. So if...did everybody receive it? It's in the chat as well. And if I may, I'd just quickly like to go over it, and then if you have any questions for Corporation Counsel, we can have a couple questions before we end today. To amend the resolution to provide clarity and flexibility to incorporate input from the community and the Department of Corporation Counsel, and to make other nonsubstantive changes throughout, we'll move to amend various sections of the proposed resolution. Sections 8-19...one of the amendments we'll be proposing in Section 8 dash...dot 1, organization, to replace the list of Staff positions with more general phrase, the necessary Staff to provide for more flexibility. Two...in Section 8-19.2 under community board, we'd like to strike from the list of board members one member who is a representative of the owner of the water system infrastructure in the license area; insert one member with experience in water resource management who resides full time in the Upcountry Council residence area to incorporate community feedback. Thank you, Staff. Three, in Section 8-19.1 under community board duties and functions, to strike duties relating to the agency's request for annual appropriations to remove redundancy; insert language to provide for meeting flexibility, including virtual meetings. Four, in section 8-19.4 under the administrator, to insert language relating to the process to be followed if the Mayor...if the Mayor fails to submit a nominee within 60 days; strike the durational requirement for the administrator's experience and replace a willingness to learn with knowledge of Native Hawaiian water resource management and ahupua'a activity systems. Five, in Section 8-19.5 under powers, duties, and functions of the agency, amend the title to read functions of the water authority; strike the water authority may prepare environmental impact statements and, when approved by Council by resolution, may enter into intergovernmental agreements and acquire property interests by use of eminent domain, to reflect input from the Department of the Corporation Counsel. Also strike the 12-month time limit for the required report to the Mayor and to the Council; strike duties relating to the agency's requests for annual appropriations to remove redundancy. Number six, Section 8-19.6 revenues, amend the title to read East Maui Water Fund; strike the Council may issue general obligation bonds on behalf of the agency and may provide capital improvement appropriations for the agency. Additional operational funding may be provided through the County general fund. And seven, amend the ballot question in the fifth be it resolved clause to make the question more concise. We just...we didn't want to take up time in the GREAT Committee next week, and we wanted to utilize as much time as we could in the APT Committee today to answer any questions that you guys may have. Now, of course, we are...we did hear

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from Director Baz. So we're willing to work with Director Baz and see if there's any language to create a Countywide authority with potential regional district boards . . .
.(inaudible). . . Is there any questions for Corporation Counsel at this time?
Or...Member Paltin.

COUNCILMEMBER PALTIN: Sorry, I might've missed that last part. If this ASF is taken in concert with the original Charter amendment with these changes being made, then does it allow for any water authority to be created, or specifically only East Maui? Sorry, I might've missed that.

CHAIR SINENCI: . . .(inaudible). . . refer it to Mr. Whittaker for clarification.

MR. WHITTAKER: Thank you, Chair. And sorry about the dog barking in the background. This would only allow for the creation of the East Maui Water Authority, but the Department of Water Supply currently has the authority to enter into leases. So the Department could do it, and you could create advisory boards by ordinance.

COUNCILMEMBER PALTIN: Oh, okay. Okay. And...

MS. THOMSON: And Chair, could I just...could I just add one thing, Chair? This is Richelle.

CHAIR SINENCI: Go ahead, Deputy.

MS. THOMSON: I think...thank you. I think at this point, creating kind of an amorphous or a Countywide Water Authority would be very confusing. It would take quite a bit more work to conceptualize how that would exist concurrently with the Department of Water Supply because this new water authority for East Maui does take some of the...of currently what is DWS's authority...does get into that territory. So I think that moving in the direction of a Countywide water authority or the possibility of creating more regional water authorities needs to probably be done as Keola was suggesting, which is, you know, have advisory boards for the regional areas of the County, and...you know, and then leave the authority with the Department of Water Supply. Or go the route as has been submitted right now, which is just relevant to East Maui. Thank you, Chair.

CHAIR SINENCI: Mahalo, Deputy Thomson. And we can go ahead and follow up with both Richelle and . . .(inaudible). . .

COUNCILMEMBER PALTIN: Okay. Thank you for that clarification.

CHAIR SINENCI: Are there questions before we...or from our resources today before we adjourn? Okay. We just wanted to mahalo everybody for joining us this afternoon for this very in-depth discussion. Mahalo, Dr. Scheuer, our Corporation Counsel Staff, as well as Ms. de Naie. And with that, Members...with that, I will defer this item if there are no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

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ACTION: DEFER pending further discussion.

CHAIR SINENCI: Okay, great. Thank you. Staff, is there anything that I've forgotten before we adjourn?

MS. STEWART: No, Chair.

CHAIR SINENCI: With that, the time is now 4:25 p.m. on Tuesday, May 31st...

COUNCILMEMBER MOLINA: Chair.

CHAIR SINENCI: Go ahead, Mr. Molina. Did you...

COUNCILMEMBER MOLINA: Sorry.

CHAIR SINENCI: Did you have an announcement for the recessed meeting?

COUNCILMEMBER MOLINA: No, not so much the recessed meeting, but for next week's meeting to discuss this Charter amendment proposal as well as others, 9:00. And Chair's intent is to wrap up by 12:00-ish hopefully. So I don't believe there's any other proposals to go into the afternoon that I'm aware of. So anyway, just for the Members' and the public's information, Chair would like to address all of...not only your Charter amendment, but the other Charter amendments as well. And we can hopefully wrap things up by 12:00 noon on June 7th. Thank you.

CHAIR SINENCI: Mahalo, Mr. Molina. And yeah, we did realize that we are on a time limit, so we wanted to get as much Q&A in prior to next week's meeting.

COUNCILMEMBER MOLINA: And yeah, Mr. Chair, thank you for this consideration as well. That'll really help the GREAT Committee move forward and address the other Committee...other Charter amendment proposals as well. Thank you for having this discussion.

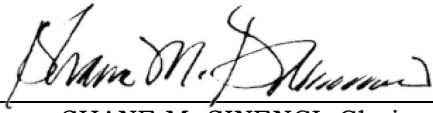
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CHAIR SINENCI: Thank you. And thank you for all the testimony. And with that, Members, the APT Committee meeting of Tuesday, May 31st is now adjourned. . . .*(gavel)*. . .

ADJOURN: 4:27 p.m.

APPROVED:

A handwritten signature in black ink, appearing to read "Shane M. Sinenci", is written over a horizontal line.

SHANE M. SINENCI, Chair
Agriculture and Public Trust Committee

apt:min:220531:bc

Transcribed by: Brenda Clark

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CERTIFICATION

I, Brenda Clark, hereby certify that pages 1 through 47 of 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 24th day of June 2022, in Wailuku, Hawai'i

A handwritten signature in dark ink, appearing to read "Brenda Clark", is written over a horizontal line.

Brenda Clark