

WATER RESOURCES COMMITTEE
Council of the County of Maui

MINUTES

September 15, 2008

Council Chamber

CONVENE: 9:07 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Michelle Anderson, Chair
Councilmember Michael P. Victorino, Vice-Chair (out 11:30 a.m.)
Councilmember Gladys C. Baisa (out 12:03 p.m.)
Councilmember Danny A. Mateo
Councilmember Joseph Pontanilla

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

ADMIN.: Jeffrey K. Eng, Director, Department of Water Supply
Tui Anderson, Water Conservation Specialist, Department of Water Supply
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the
Corporation Counsel

Seated in the gallery:

Milton M. Arakawa, Director, Department of Public Works

OTHERS: Bud Pikrone, Wailea Community Association (Item No. 14)
Ken Ota, ISI Hawaii (Item No. 14)
Jocelyn Perreira, Executive Director, Wailuku Main Street Association,
Inc./Tri-Isle Main Street Resource Center (Item No. 14)
(10) additional attendees

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

CHAIR ANDERSON: ...*(gavel)*... Good morning. Welcome to the Water Resources Committee meeting of September 15th. With us this morning is our Vice-Chairman Mike Victorino, --

VICE-CHAIR VICTORINO: Good morning, Madam Chair.

CHAIR ANDERSON: --Members Joe Pontanilla, Gladys Baisa, and Danny Mateo. Thank you all for being here on this bright Monday morning. Also with us from our Department of Water Supply is Director Jeff Eng.

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MR. ENG: Good morning.

CHAIR ANDERSON: Good morning. Our Conservation Specialist, Tui Anderson. Good morning. And Deputy Corporation Counsel Ed Kushi.

MR. KUSHI: Good morning.

CHAIR ANDERSON: Good morning. Also from Staff we have Analyst Kim Willenbrink and Staff Secretary Clarita Balala. Thank you all for being here.

Also with us this morning, Members, we have a special resource person via telephone conference, from Boston, Massachusetts, Amy Vickers. I passed out a biography and I'm going to introduce her. She's on the phone right now. She'll be with us through the meeting as a resource person and I just want people to understand her background. So I'm going to read a brief biography which I passed out to all of you. Ms. Vickers is a nationally recognized water conservation expert and author of the award-winning *Handbook of Water Use and Conservation* which we have used extensively in this County. She was first brought to our assistance by Carl Freedman who's doing the Water Use and Development Plan which has an extensive conservation section in it. Besides from the *Handbook of Water Use and Conservation* she is also an engineer and president of Amy Vickers and Associates based in Amherst, Massachusetts.

Ms. Vickers began her career working for the New York and Boston water systems. She quickly became recognized on the national scene for her groundbreaking research and advocacy efforts to establish national water efficiency standards for plumbing fixtures. The recommended standards for low-volume fixtures were adopted under the US Energy Policy Act of 1992 and are now required nationwide. America will save an estimated six to nine billion gallons of water a day by 2020 as a result of the EP Act Fixture Standards, enough to meet the water needs of more than six major cities in the United States.

Today, Ms. Vickers works on a diverse range of water policy and conservation projects with clients in the U.S., Canada, and overseas. For nearly 20 years, she's traveled extensively to advise and assist over 100 water supply systems as well as government agencies, research institutions, businesses, and other organizations on ways to better manage, protect, and otherwise stop wasting water. Some of her recent clients include Arizona Governor's Drought Task Force, Dallas Public Utilities, Orange County Utilities in Florida, the Nature Conservancy's Water Sustainability Certification Project.

Now in its second printing, Ms. Vickers highly acclaimed *Handbook of Water Use and Conservation* is known by many as the bible of water conservation. The American Water Works Association calls it, "The most thorough reference ever published on water use and conservation. Everything you need to know. A gold mine of resources." *Environmental Building News* hails it, "A superb reference. Anyone working on

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conservation programs for governments or institutions will find it invaluable, and many others will benefit from it as well.”

In addition to her book, Ms. Vickers has published more than 50 technical papers and articles in publications that include the *Journal of American Water Works Association* and magazines such as *Fine Homebuilding*, *Building Operating Management*, and *Greenhouse Grower*. She has also contributed to books published by W.W. Norton and Scholastic.

Ms. Vickers holds an MS in Engineering from Dartmouth College and a BA in Philosophy from New York University. A frequent public speaker at water conferences coast to coast, Ms. Vickers’ ideas and observations have a growing audience and has included CNN, *The New York Times*, the White House, and even the headquarters of Ben and Jerry’s Ice Cream. So we’re happy to have her with us today. Welcome, Ms. Vickers.

MS. VICKERS: Good morning, Madam Chair. Thank you very much for that generous introduction and just hello to everyone else, Members of the Council, and the Water Department, and others who are in the room right now. Great to be here today.

CHAIR ANDERSON: Thank you for joining us.

MS. VICKERS: Welcome.

CHAIR ANDERSON: So what we’re going to do, Members, is I’m going to briefly go over what we discussed and receive consensus at the last meeting so that those who are watching or may be here to testify understand where we are with this bill. I know there’s a lot of misinformation out there and I think it’s important we have made changes and we haven’t gotten a lot of press coverage on it. So I just want to quickly go over the bill as to where we stand right now. I know that there was a statement made in a news article some time back when we were discussing this bill that some people have taken and run with, run, taken it for heart I guess and are upset about and the statement was, “The restrictions are intended to be so painful that people will shift towards landscaping appropriate for a dry area.” Well, maybe that will be the, the intention. In the final analysis, people may find it more appropriate to use landscaping that meets the climate of their area. But that is not really the intention of this bill, and I don’t think that, that watering three days a week will turn anybody’s yard into a desert like Arizona. So just to give you an update, at the last meeting we set the irrigation schedule to be three days a week using odd and even numbers. And, Members, anytime as I’m going through this if you have a question, please note it so we can get back to it ‘cause I’m just going to briefly go over the bill, then I’m going to open it up for testimony. And after that we will have a brief comment by our Water Director and then a comment by Ms. Vickers, and then we’ll go over all your questions and concerns.

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So the bill allows for watering three days a week. It allows for areas that don't have addresses, like common areas to be watered three days a week on specific days, Mondays, Wednesdays, and Saturdays. And it allows for large landscape areas that have to be irrigated in sections or zones to have certain zones done on Thursdays, Tuesdays, Thursdays, and Saturdays, and remaining zones on Sundays, Wednesdays, and Fridays so that any given large property will still have three days a week for all of the areas within their property. It again prohibits runoff onto streets, sidewalks, and gutters. And it was brought to my attention by Mr. Anderson that perhaps we need a qualifier in here to allow for maintenance work so that when we flush our distribution lines that will be an exemption. So we'll add language for that. We have put in exemptions as follows, and these exemptions are, of course, do not apply to the three-day-a-week watering: so any irrigation using handheld hoses equipped with automatic shutoff valves; drip irrigation systems; irrigation by commercial or private nurseries or farms qualifying for agricultural rates; irrigation of personal food gardens; installations, repairs, and maintenance of new and existing irrigation systems; irrigation between the hours of 6:00 p.m. and 9:00 a.m. using 100 percent reclaimed water or irrigation of golf courses between the hours of 6:00 p.m. and 9:00 a.m.; newly installed landscapes can be watered for up to 90 days from the date of installation to establish their plantings, and this of course does not limit them to daytime watering if they need to do so to keep the new plants thriving; athletic playing fields which may irrigate four days per week between the hours of 6:00 p.m. and 9:00 a.m. to maintain playing condition of fields; and all manual boat and car washing which use handheld hoses equipped with automatic shutoff nozzles. So those are all the categories that are exempt from the three-day-a-week watering schedule.

Then we also have an exception for people with extraordinary irrigation circumstances. They can request an exception to the watering schedule from the Director. And this was brought to our attention for the needs of say the County Fair, when they have to set up and interrupt the watering schedule for that playing field. We've also requested that the Department develop an education program to implement this bill and also that we will review this ordinance for effectiveness after one year of its enactment. Okay, Members, that's as far as we got and today we'll be discussing the enforcement section. I would like to open, open it up for public testimony. And I think we have one testifier, yowzah. So I'm going to let Mr. Bud Pikrone come forward and testify. And then we're going to briefly discuss this water availability worksheet that's passed out. 'Cause I want us to establish, based on scientifically-derived numbers, why we're taking these measures, and Director Eng will guide us through that. Mr. Pikrone, you have three minutes.

...BEGIN PUBLIC TESTIMONY...

MR. PIKRONE: Thank you, Chair. I agree with you, it's kind of sad that I'm the only one here to testify one way or the other on this. I do applaud the Committee for looking into water issues, we do need to look at that seriously on this island. There's many things that I have testified on previously with this and sent additional correspondence to you on why I believe this legislation just isn't right for this time. I'd like to just take a moment to reinforce some of those thoughts. In recent newspaper articles we have seen that the

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Water Department has shown that comparative numbers during the past year indicating water for Central-South Maui system is down week after week. Now this may not be quite enough, we need to do more. But it does indicate something to me that people are changing what their thought processes are, and the programs such as we have in Wailea are beginning to take hold. That to me is what I've always been saying is we need to work on programs like that. Again, at a recent planning conference last week, some of you were there, much was said about the changes needed on Maui. And I believe Ramsey, Tom of University of Hawaii kind of summed it up best when he said "We must act ourselves into a new way of thinking." And that's what I believe is needed here, that as a community we all must respond to this problem by changing our thinking rather than having government react to it without having the proper buy-in by the community. I still hope that that is the way we can go because I don't see how regulating water to three days a week is going to make a difference. To me there's just, people aren't going to buy into that, they're going to find ways to water, over-water, and we're not going to have the necessary savings or buy-in that we should have. That's all I need to say right now. Thank you.

CHAIR ANDERSON: Thank you, Mr. Pikrone. You, you are testifying on behalf of the Wailea Community Association?

MR. PIKRONE: Yes, I am.

CHAIR ANDERSON: Members, any questions? Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Good morning, Mr. Pikrone. Thank you for being here. I do have a question in regards to your conservation plan. When I say yours is the Wailea Association conservation plan. Do you have a copy of that that we can take a look? What you say, it's a right, you know, that I read this morning's *Maui News* and it indicates that Central Maui usage, although it has gone down, you know, it hasn't gone down that far enough, but it has gone down. But regarding your plan for Wailea, do you have a copy of that that we can have and take a look --

MR. PIKRONE: Yes.

COUNCILMEMBER PONTANILLA: --what action plans that you guys going to do to conserve water?

MR. PIKRONE: Right. I can get you that. As I testified previously we were in the process last time of having an audit done of all of our equipment and our practices. That has been completed, and we are in the process now of putting our final plan together on that. But I can get that for you, yes.

COUNCILMEMBER PONTANILLA: Thank you. And I think it goes into the education part. So thank you again. Thank you, Chairman.

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CHAIR ANDERSON: Yeah. Mr. Pontanilla, there should be a copy of the letter from Wailea in your binders. And I'm going to ask Members to use their microphone as close to their mouth as possible so that Ms. Vickers can hear everything that we're doing today. Thank you, Mr. Pikrone. Any other questions? Seeing none, we have one more testifier I believe. Do I have a signup sheet? Is there a signup sheet for...oh, you can sign up later. I thought I saw Ms. Perreira come up and sign up. Oh, you didn't sign up? Oh, okay. Go ahead.

MR. OTA: Good morning, Chair. My name is Ken Ota from ISI Hawaii. I just wanted to add on, if it's possible the Council can look for exemptions for water-based irrigation based on the weather. We have different hotels, different communities, different associations using systems based on water base. It's all based on water demand, plant material demand. There is already implemented one such as Wailea Association, they're also on a water-based system. We would want to ask you as an exemption for systems that is being used currently right now and for the future. Thank you.

CHAIR ANDERSON: Any questions, Members? Ms. Baisa.

COUNCILMEMBER BAISA: Yes. Thank you, Chair. Thank you very much, Mr. Ota, for being here. Could you elaborate on what a water-based system is, please?

MR. OTA: The water-based system works off of evaporation, evapotranspiration on weather systems, so we have in different micro-climates on Maui County different weather stations. A lot of the golf courses use a weather-based controller or a weather station that determines how much water is applied on a daily basis. So even though we think Maui County kind of averages out on a hot weather, we do have a lot of fluctuations on a daily basis of evaporation. So it works off of a specific weather station in micro-climate areas. We do have also, it's not a full proof system in a sense that in areas it can work or over-water in areas that it has a different or a bad distribution uniformity on the irrigation system. So I mean it's not a full-proof system, but at the same time it's just part of the way of doing conservation based on demand of water.

CHAIR ANDERSON: Thank you, Mr. Ota.

COUNCILMEMBER BAISA: Thank you.

CHAIR ANDERSON: Mr. Victorino.

VICE-CHAIR VICTORINO: Yes. Thank you. And that was part of my question. The other part, with these systems that you've just referred to, that is taken into consideration the various fluctuations in our droughts, you know, the differences in our weather patterns. Does this system also include those kinds of changes in the various climactic changes we've been experiencing over the last three or four years?

MR. OTA: Councilmember Victorino, it works on a daily basis.

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VICE-CHAIR VICTORINO: Okay.

MR. OTA: So you have a daily reading each day to figure out what kind of weather pattern has been involved in your area, in your micro-climate area. So it does react on a daily basis.

VICE-CHAIR VICTORINO: Are these reports, are you able to share that with, with us as far as how the, these reports are accumulated over the, let's say the past two years?

MR. OTA: Yeah. I can turn that in. I do have some data I can turn in today.

VICE-CHAIR VICTORINO: I would appreciate that. Thank you. Thank you, Madam Chair.

CHAIR ANDERSON: Thank you, Mr. Victorino. Mr. Mateo.

COUNCILMEMBER MATEO: Thank you, Madam Chair. Mr. Ota, how many of our golf courses do participate with this water-based system?

MR. OTA: All but two. Pukalani Golf Course and the Spreckelsville Golf Course.

COUNCILMEMBER MATEO: And these golf courses, there's no other, like Lanai Golf Course?

MR. OTA: Well, Lanai, yeah.

COUNCILMEMBER MATEO: Lanai does?

MR. OTA: Lanai does.

COUNCILMEMBER MATEO: So Countywide --

MR. OTA: Yeah.

COUNCILMEMBER MATEO: --all but two, and those two are on Maui?

MR. OTA: Correct.

COUNCILMEMBER MATEO: Maui island? Thank you.

CHAIR ANDERSON: And just for clarification this bill does exempt golf courses.

COUNCILMEMBER PONTANILLA: Chair?

CHAIR ANDERSON: Ms. Baisa.

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COUNCILMEMBER BAISA: Mr. Ota, so what I'm understanding with your explanation is that this is some kind of a computer system that automatically adjusts how much watering is really needed rather than having to implement any kind of a restriction?

MR. OTA: Yeah. It's based on what the plant is needed.

COUNCILMEMBER BAISA: So if it's not needed, you don't get, you don't use it?

MR. OTA: You don't water. Yeah.

COUNCILMEMBER BAISA: Okay. Thank you.

CHAIR ANDERSON: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. What would be the cost for that particular piece of equipment?

MR. OTA: For the residential, if it's residential, commercial, or multi-family it's under about \$300. There's also an extensive system. It works off of a central system. That can run up to like about \$20,000. So that's what Wailea Association uses.

COUNCILMEMBER PONTANILLA: Thank you. One more question. You know, we all talk about the island of Maui, Molokai, and Lanai. You know, we do have Ms. Vickers on the phone. I get one question for in regards island countries, island countries like, island countries like Guam, Japan, American Samoa. Do you have any indication in regards to if they utilize this particular system to conserve water?

MR. OTA: I don't have any data based on the Pacific region. I do have data for what EPA has done over the past, what their study has done. So I'll turn that in also.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

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

MR. OTA: Thank you.

CHAIR ANDERSON: You know, I think that's, I think we've covered that sufficiently. We're going to have Ms. Vickers speak about evapotranspiration technology, and so I hope you'll listen in.

MR. OTA: Thank you.

CHAIR ANDERSON: Thank you. Okay. Members, seeing no other testifiers...Ms. Perreira is coming forward. Anybody else want to testify at this point?

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MS. PERREIRA: Good morning, Madam Chair, --

CHAIR ANDERSON: Good morning.

MS. PERREIRA: --Members of the Council. My name is Jocelyn Perreira, I'm the Executive Director and the Tri-Isle Main Street Program Coordinator for the Wailuku Main Street Association Inc./Tri-Isle Main Street Resource Center. I would like to, having reviewed what your transmittal, Madam Chair and Members of the Council, we would like to thank you very much, all of you for your due diligence with our precious water resource. I think this is, looking at it we believe this is outdoor irrigation water use schedule is fair in accordance with trying to do our best to conserve as we are all sharing challenges these days -- a multitude of challenges. So we want to thank you for your very hard work and good efforts with very good intentions. Mahalo.

CHAIR ANDERSON: Thank you, Ms. Perreira. Any questions, Members? Seeing none, we appreciate you coming.

...END OF PUBLIC TESTIMONY...

ITEM NO. 14 WATER CONSERVATION (MISC./C.C. No. 05-273)

CHAIR ANDERSON: So, Members, I think what we'll do is allow our Director to...I wanted to just give us a foundation for why we are instituting these conservation measures. And I think they are fair and equitable to everyone. And I want to emphasize the reason, some of the reasons. At the last meeting I showed you charts from USGS showing that our water levels are dropping in the Central System. The chlorides are rising, the transition zone is narrowing and rising, and we have a long-term trend of rainfall decline. And to be more specific, I have handed out a worksheet that the Department has put together showing water availability. And I think, you know, it's not my intention today, Members, for us to go into detail in regards to this worksheet. We did go over this some time ago, you know, it was a different date on it, but it's the same worksheet that the Department is keeping. This one is as of March 31, '08. So I think just for the purposes of our discussion today that I'd like to maybe, I'll let the Director say what he wants to say about it. But I think what, what we need to do is focus primarily on the Central system so that we can be consistent in regards to the slides I showed you from USGS at the last meeting which were all in regards to the Central system. And basically, you know, this is going to affect Lahaina also, and it also shows the deficits in the Lahaina system. But I think maybe if we just go over the Central system, unless Mr. Eng would like to mention others, since really it's the Wailea people that are having the hardest time accepting this. I think they need to recognize the condition of the Central system of which they are using the water from. So, Director Eng.

MR. ENG: Thank you, Madam Chair. And good morning, Committee Members. I know a lot of you struggle whenever we're facing new legislation, particularly with mandated water

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conservation practices. But the reality is until we get new sources developed, or in the case of groundwater sources, until we get higher water use permit limits from the Water Commission, legislation such as this and even more legislation will be required and will continue to be required. Yeah, a lot of you do follow some of the data and our community has been conserving, there's no doubt about that. But that's something we should have been doing a long time ago too. So it's just doing the right thing, and we're finally seeing that. But we know one area that can get out of hand if we do not put some limits on it, is irrigation, outdoor irrigation. That's one area that one can easily become wasteful. That's also one area that can easily be controlled, and so that's why we are focusing on, on this particular area at this time. Earlier Ms. Willenbrink passed out the availability spreadsheets. And you've seen it a number of times over the past year and a half or so, and if I can just briefly point out to you, if we can look at the Central Maui spreadsheet, and I think that's the second page. I'm hoping Ms. Baisa got the English version this time.

COUNCILMEMBER BAISA: Thanks.

MR. ENG: You're welcome. And if you look at, there's a number of columns and around the mid-right area of that spreadsheet it says the remaining capacity by system standards.

CHAIR ANDERSON: Director Eng, could I just interrupt for one minute?

MR. ENG: Sure.

CHAIR ANDERSON: I'm sorry I didn't tell the viewing audience or people in our gallery here that we've made copies available. So if you want a copy to follow along with Director Eng I think it would be helpful. Okay. Thank you, Director Eng.

MR. ENG: Maybe before I refer to the spreadsheet, I just would like to briefly talk about our water system standards. And it's basically standards that have been adopted by the various counties since 2002. And Maui County has stringent standards but they're identical the island of Oahu, and some could even argue that perhaps our standards should be even more stringent in that we're not interconnected. And as I understand, I believe all of Oahu is interconnected now. It may not be looped but it's interconnected. We're neither looped nor interconnected. So, you know, we have to have conservative and stringent standards, and, and, and these are standards, even though the numbers look ridiculous, the deficit numbers. They are, they are standards that we will continue to strive for.

So if you have that spreadsheet before you, again it's Central Maui availability, and it's, it's basically the third column from the right. The title says "REMAINING CAPACITY BY SYSTEM STANDARDS". So these are the water system standards that we have adopted and that we follow. And refer to the column on the very left, it says, near the bottom there's one line that says "TOTAL BEFORE REMOVING PUMP" and "LARGEST PUMP OUT OF SERVICE". To be in full compliance with our water

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system standards, if you look at the line that says "LARGEST PUMP OUT OF SERVICE" and then go all the way to that third-to-the-right column, you'll see that minus 8,270,000 gallons per day. So that's the deficit we have in Central Maui based on our water system standards. It's a real number. It's something that at some point in our lifetimes I hope that we can, can bring down to zero. It's something we will always continue to strive for. But basically it's telling us is that if we had a major emergency, a breakdown in their system, a significant well or two going out of service, then we'll be in big trouble here . . . *(change tape, start 1B)*. . . and so it's a real, real, real concern. It's not just, say, a bogus large deficit number that we're trying to instill fear in anyone. It's something that should be a big concern for all of us. So, you know, and if you look at all the other water systems that we have throughout the County, there's similar type deficits. They may vary because some of the systems are, are, consist of, of surface water and, and majority of the source could be surface water like Upcountry, or it could be a system like on the West Side that is almost an equal combination of surface and groundwater. But we're seeing deficits everywhere based on standards, and it's something that we need to address. So until we get these, again, until we get some new sources online or in the case of the groundwater sources, until we get higher water use permits from the Water Commission, we, we need to do this type of legislation. And it's the right thing for us to do, and even with this type of legislation there'll be enough water for everyone to use wisely in this community. Thank you.

CHAIR ANDERSON: Thank you, Director Eng. I think, I really appreciate your overview. And for those Members who may not be familiar with system standards or those who are listening in, the, the system standard that the County has always tried to follow is using two-thirds of two-thirds of the well's capacity, or the sustainable yield. We have long ago exceeded those standards as you can see by this chart. And of course that, those standards are done so that during peak demand there's always plenty of water, and also if there's any breakdown or pump malfunction, there is still enough water left within the system to meet demand. So I'm going to ask the Members to hold off on any questions until we...well, maybe I'll do that, I'll allow any specific questions that, to Director Eng's comments. But we are not going to get into in-depth discussion about this chart. It's only for the purposes of giving a basis for the reasoning behind this bill. We will bring this subject matter back, and...because it's not on our agenda I don't want to go in-depth about water availability. So any specific questions about the chart, the, the method that we're currently using, or...I mean it's pretty shocking, and if you even go further and look at the adjustments that will be necessary for reservations and for subdivisions that have not yet been put online we're, we're in trouble.

COUNCILMEMBER PONTANILLA: Chair?

CHAIR ANDERSON: I'm going to start with Member Mateo and then go on down the line.

COUNCILMEMBER MATEO: Chairman, real briefly because I do not expect responses from the Department at this time. The Department can provide a follow-up maybe later on when we actually discuss it. Real quickly, my concerns would be one, this particular

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sheet and I know we're just focusing in on Central Maui at this point, but if this is indicative of a County worksheet, Molokai and Lanai is not represented on, on the actual breakdowns. So I'd like to see a worksheet done for Molokai. Two. . .

CHAIR ANDERSON: Member, Member Mateo, Molokai should be the very first sheet. You might have missed it. Look on top, top left. Starts with Kaunakakai.

COUNCILMEMBER MATEO: Not Upper Kula?

MR. ENG: Madam Chair, I think it's the very last sheet.

CHAIR ANDERSON: Oh. It's the very first one on my, on mine.

COUNCILMEMBER MATEO: Okay. Well one, one, you, okay, I'll look at it.

CHAIR ANDERSON: There is one here.

COUNCILMEMBER MATEO: Mine starts with, with Kula and then I don't find Molokai. But I will, I will, I will go through it for the breakdown. Secondly is...so big, I need my magnifying glass. I'll look through Molokai's one. Secondly, is the Director referenced the need for recognizing new source, and this is, this has not been a new inquiry, it's been one that's been going on. And now that we actually see the numbers specifically for Central Maui I'd like to know what the Department's plans is for actually starting to recognize and develop new source. And thirdly, the Director's reference to higher water use permits from the Water Commission, if perhaps sometime down the road you can tell us what that consideration could be as the Department looks at potential considerations for additional permits for higher water use. Because I believe that we all need to take a look at, at those numbers. And then just real quickly, Mr. Director, this body is never, never skates away from looking at new ordinances. It's just that a lot of our dependency comes from information that we receive from the Department. So if it seems that we do not, or we hesitate in looking at new ordinances, you know, I think a lot of that comes at our inability to get accurate information from the Department. So it is a shared responsibility. So thank you very much, Madam Chair.

CHAIR ANDERSON: Thank you, Mr. Mateo. I direct your attention to the bottom of the page on Central, and you'll see that there are, are near term supply adjustments that the Department is looking at. One is the Maui Lani wells and the other is the Waiale Treatment Plant. Members, again we're not going to focus on new source or anything like that. We're trying to get through this bill. I'm only bringing this forward for your and the public's understanding as to why it's necessary for us to take a serious look at the way we use water for irrigation which is the highest water use in the County. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. To refer to the Director's comment about my finally getting the English version, I have some concern about the English version. I just want to be very sure that I understand, as well as the people that

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are watching us today. You referred in that third column to if we, if the largest pump is out of service in this Central system, we're short eight million gallons and some change a day. So above that with, with the pump, of course, operating we're short over five million gallons a day. If I'm correctly understanding that, how is it that the water still comes out of the pump? What are we doing?

MR. ENG: With these numbers it doesn't mean that we're, water isn't in the lines, it's not being delivered to the homes. Again, it's just we're operating without the needed safety factors and redundancy.

COUNCILMEMBER BAISA: So then we are in violation of our standards because we are using more than we're supposed to if we followed the standards?

MR. ENG: That's correct. The standards that we have adopted, again they do have a lot of safety factors within them. But in this type of community that we live in, we should have those type of factors. They're appropriate. So you're absolutely right. We still have water served, but if there was an emergency, a major breakdown in the system, we won't be serving water to some areas.

COUNCILMEMBER BAISA: That only tells me that we have a lot of work to do. And I am anxious that we have a water use and development plan, that we have a conservation plan, and not just a little piece like we're working on, but we really need to get those documents done. Thank you.

CHAIR ANDERSON: Thank you, Ms. Baisa. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chairman. I think Member Mateo had asked some of the questions that I was going to ask the Director in regards to new water source as well as the consumption. One question though, you know, Oahu system which are interconnected and I think you and I had that discussion some time ago in regards to integrating the water system here on Maui so that we get full use of the waters that we do have on the island of Maui. What seems to be the holdup in regards to a plan integrating the water system for Maui County, for Maui in general?

MR. ENG: Thank you, Member Pontanilla. You know, for someone who's operating the water system, the ideal situation would have as much interconnections and looping as possible, 'cause our intent is always to be able to serve our customers 100 percent of the time. The most logical interconnections at this time would be Upcountry and Central Maui, but that has been opposed by various community groups, and therefore, it hasn't been implemented. That could be implemented immediately. Interconnecting other areas like Central and West Maui would be difficult because of the distance and the cost, likewise East Maui. So that's what we're facing, you know, community sentiment. Our interest is definitely there to interconnect where we can, again, just from an operational standpoint. But, you know, we'll bide by what the community desires.

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COUNCILMEMBER PONTANILLA: Thank you for that response. One last question. In the water use and development communities for both Upcountry and Central Maui, I note that integration wasn't part of the plans, the five different plans for each area, and, and why not?

MR. ENG: Well, one is you're correct, and no, it's not planning to be interconnected as I understand at this time. Why not? I do not know. I'll look into that for you and get back to you.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR ANDERSON: The question is why they aren't interconnected?

COUNCILMEMBER PONTANILLA: You know, what would it take to interconnect, and we do have two committees that are presently looking at new sources in regards to water, and, you know, the interconnection wasn't an option or an alternative for water, water interconnection for the island of Maui.

CHAIR ANDERSON: Yeah, well, just off the top of my head, really the only two systems that could be interconnected, it would be impractical to interconnect Lahaina with West or Central. But so the two systems would be Central and Upcountry.

COUNCILMEMBER PONTANILLA: And Upcountry. Yeah.

CHAIR ANDERSON: And we'd need somewhere around 10 million gallons a day in additional source in order to make that feasible, to have enough water for the 36-inch line that's already been put in for a certain section of that connection. And that of course depends on East Maui, and that of course depends on the petition that's still outstanding with the Commission on Water Resource Management and various studies that the County has got to do before we can begin drilling any wells in East Maui. So what we're trying to do, Members, is deal with the situation at hand in a manner that is a common sense approach to wasting water for irrigation. And primarily the bill addresses sprinkler systems for large turf areas or lawns. And we're trying to be equitable so that as the homeowner has to conserve their water use and that other larger water users do the same. So, Ms. Vickers, you've heard our...I'm going to close public testimony first, if there's no objection.

MS. VICKERS: Okay.

CHAIR ANDERSON: And you've heard our discussion so far this morning.

MS. VICKERS: Yes.

CHAIR ANDERSON: And I would like to open it up to you. Members, we are paying Ms. Vickers for her professional time, so let's take advantage of it. Ms. Vickers.

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MS. VICKERS: Well, thank you again, Madam Chair, and other Members of the Council, and those in the room. Well, first, I'd like to just start off by saying that I think that, you know, the ordinance you're proposing is in my experience, and I've worked with well over 100 water systems in the U.S., your proposed watering schedule is, I would dub it as quite standard, a mechanism to reduce outdoor water waste, as you say, by lawn irrigation, primarily home but also small businesses, hotels, et cetera.

The other thing I would say is just to really underscore what Director Eng was saying during his remarks earlier that, you know, this is the type of measure that I would argue you should have done a while ago. And, you know, if you look at most water systems around the U.S. and elsewhere that have the type of water supply limitations, and in some cases, extreme conditions as I think you're starting to face, this is really a baseline type of restriction to put into place. Now, I know it involves a change, but what I would tell you is that the good news about this type of ordinance is that you're going to save water. And, you know, there are many ways to save water outdoors. You can, dozens and dozens of ways. But I would say that the first and most important thing you can do is to establish an ordinance such as this.

And I'd just like to share some statistics with you, which I believe I presented when I was at the February hearing of the Council, at least to remind you that, you know, the water industry tracks these kinds of initiatives and I just want to share with you some numbers. There was an article in the AWWA, American Water Works Association *MainStream* about two years ago talking, there was headlines, mandatory restrictions save water, and they were reporting on a study of drought restrictions. They found that communities that instituted every-third-day watering schedules achieved about a 14 percent water savings across the board. And that's really just the start of the kinds of savings I think you can see with a watering restriction.

Now what you're proposing in Maui is a three-day-per-week restriction. I would say if I put you in the context of the rest of the United States and particularly focusing on Florida because if I compare you to Florida I think climatologically in terms of commerce, tourism, you're very similar. The trend in Florida in terms of water restrictions, I would say the typical watering restriction among the water districts from Florida is two days per week. But there are some of them that are now down to one day per week. And in fact if you look at some of the water districts such as South Florida Water Management District, now they normally allow a three-day-per-week restriction, but because of their drought conditions this summer, all homeowners, all businesses including hotels, restaurants, et cetera, have been to a two-day-per-week maximum restriction. And like the ordinance you're proposing, they do allow hand watering. And I can tell you that I've been down to Florida a lot, I work there frequently with the water management districts and, and with a utility in central Florida. You know, I think that these restrictions have become so common that business is just starting to adapt and accept this is the way it is. And frankly there's really not a lot of resistance, and I think it's for two reasons. Number one, I think people are starting to realize we don't really have a choice here and this is really

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the most effective thing you can do to start, to start saving water. The other good thing about these type of restrictions is that businesses are saving money, and in fact when you impose a restriction such as the one you're looking at, it forces homeowners and businesses and hotels and others to look at their irrigation systems and fine-tune them. Most of the water that is used outdoors is wasted. And so one of the benefits you get from this is people will start fixing their inefficient systems. In fact, that will create some business for irrigation companies and service providers out there because that work will need to be done.

But I would say in general again, to restate my earlier comment, the trend is in two-day-per-week restriction, so you're talking about a three-day-per-week restriction which is more generous. But I think that's a fine place to start. I'd also just mention again we're starting to see more trends particularly during drought and water supply emergencies, one day per week. And again businesses are not going out of business because they can only water one day per week.

I wanted to make some comments on the ET controllers, also known as weather-based controllers more commonly now. The gentleman who spoke earlier, and I know others have, have raised this question is they would like to see an exemption for the ET controllers. I'm going to say a couple about ET controllers, weather-based controllers. They're absolutely a very promising technology. There have been more and more studies showing that in most cases they're saving water. But I would caution you that in some cases weather-based controllers have been found to increase water use, because some properties practice what we call deficit irrigation. They have very attractive turf areas and plant areas, but because those systems are fine-tuned they're actually using less than evapotranspiration requires, but they're still very attractive. We've seen problems that some of these weather-based controllers are installed and again outdoor water use goes up. Landscape doesn't look any better but water use is going up. And so this is a big issue in the water efficiency and also the irrigation industry in that it's generally recognized that this is a promising technology, but we're, we're not yet to the point where this is a sure thing in that there's no standard protocol for this technology. And the savings vary, I would say in some cases wildly depending, depending upon what model you have.

And so I came up across this issue very recently in central Florida where I've been doing work with Orange County Water Utilities in central Florida. And they've very recently passed a water restriction similar to what you are proposing here, although the two day per week. We got this, this, this same issue was brought up in our proposal there. People said, well, look we've got an ET controller, weather-based controller, we really don't need to follow your restrictions, we're going to save water. That variance was not allowed and I see no other water district that has allowed it, and I think the primary reason is, is because what's happening on the national level is that the EPA is getting involved through its WaterSense program which is very similar to the Federal Energy Star program where EPA is now looking to certify ET and weather-based controllers. And what they're saying is that we will certify ET and weather-based controller products

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if they meet certain protocols. Now one of the key protocols is that the product must be able to comply with utility drought and water restrictions. This is very important in terms of this issue about allowing exemptions. I would urge you not to allow exemptions because the EPA is addressing this, and what they're saying is that we like these weather-based controllers, we think the technology needs to improve. We're going to put the WaterSense stamp of approval, being it's a water-efficient, weather-based controller only if a particular product has the ability to adapt to local watering restrictions. And I've shared with Chair Anderson the draft protocols. I don't know if she's received her copy yet. I shared it with her staff earlier. This, this really listing out there's a level of detail that EPA is going to require in future weather-based controllers. So I bring this up because I understand that, that naturally people are saying, you know, let's bring technology to this, and I absolutely encourage you to do that. But I don't think that should be an excuse for a variance. And, you know, I think with that I will stop my comments here and join back in the discussion with you.

CHAIR ANDERSON: Thank you very much, Ms. Vickers. I, I just want to ask you to expound, and then I'll open it up for questioning. Actually, I'm stalling just a little bit because we did get the ET protocols and we're having some, they're on their way. We had a little problem getting them copied. But if you could just expound a little bit, and I know, you know, the Members have not had the opportunity or the privilege to read your book. And I've had it for some months now and I've tried to read most of it. But if you could just expound a little bit on...well, first of all it's my understanding that most, that maybe 70 percent of our total water use is for outdoor irrigation. And you made a comment that most outdoor water use is wasted. So could you comment on that, on the waste factor? And, you know, I think people just don't, haven't been educated and don't understand, and maybe think as in their youth you have to water every day.

MS. VICKERS: Sure. Sure. Yes, that's, that's true. You know, the EPA has a national statistic. They say that, you know, 50 percent of urban water use is for outdoor water demand and much of it is wasted. I think if you look at states like Hawaii, Southern California, Florida, the warmer climates, you would see at least 70 percent of, of water is used for irrigation. And it's actually true that much of it is wasted. And, you know, what we've found is that one of the best ways long term to reduce this waste, start limiting irrigation.

Again, as I said earlier, you know, the number one thing to do is just limit the number of times per week they can actually turn the irrigation system on. And, you know, again across the board I think if you look at the literature, you know, and AWWA conference materials, *Journal AWWA*, et cetera, you will see time and again that this is the first line of defense, what do utilities use to really strike at this, this gross waste. And then we starting moving in, into, you know, technologies. One other point I would say about this, I mentioned the EPA's WaterSense program, and I'm not sure if you're all familiar it but I'll just briefly describe it again. It's, it's really, you know, kind of the water equivalent to the Energy Star program where EPA is now starting to, you know, based on performance criteria, stamping certain products as water efficient if they save at least

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20 percent of water than is used by conventional products. But in addition to EPA starting to look at weather-based controllers, one of the things we're starting to see in the green building industry is there's more advocacy now for what we're calling irrigation-free landscapes. I think the focus of this is primarily on, in the residential area. But I bring this to your attention because, you know, the things we're talking about today in terms of the three-day-per-week restriction and, and weather-based, the ET controllers, those are all tools in the toolbox that many water utilities are using now. But they're thinking that getting more ground, they're talking about going even beyond that. So, you know, again I just want to underscore that this issue of outdoor water waste is really coming under increased attention. I think what you're looking at with this three-day-per-week restriction is really just something you've got to have under your belt if you want to start really clamping down on this problem.

CHAIR ANDERSON: Thank you, Ms. Vickers. We, we do now have the handout on interface features.

MS. VICKERS: And, and if I could draw your attention to Page 2. And again, these are draft protocols that the EPA is considering for weather-based controllers, and what they're saying here is, and again this is a draft so it's not final, what they're saying is that for a weather-based or ET controller to get our WaterSense seal of approval, you know, to have that nice symbol on there that you see on top, you're going to have to comply with these specifications. And again directing your attention to the top of Page 2, I've highlighted in yellow, they're saying that if, that if this device is in ET mode, you know, operation mode, it's got to apply with local water utility restrictions. And as you can see here I think what they're saying is that whether it's one day, two day, three day whatever, that product to get the WaterSense approval must be able to comply with the local water restriction ordinance. And I think this really addresses the concerns of the gentleman earlier and others who want a variance. I really don't think you need a variance because I think EPA and others are looking at this quite closely. They're saying that these technologies must comply with local ordinances first.

CHAIR ANDERSON: Thank you, Ms. Vickers. Members, any questions for Ms. Vickers?

COUNCILMEMBER PONTANILLA: I got one.

CHAIR ANDERSON: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Ms. Vickers, for being on the teleconference. I had a question, have you made any studies based on island countries in the Pacific?

MS. VICKERS: That's a good question, sir. I have not. What I will tell you is that the problem of this excessive irrigation to my knowledge, and I think your literature is the same, is it's hardly confined to the United States. Parts of Canada are now starting to address this. Certainly, affluent areas in other areas of the Pacific are probably dealing with this as

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well, but honestly I'm just not informed about that if it's out there. I think, again my sense is what you would find is I think the U.S. has probably been the most aggressive in getting into policymaking in this area and really pushing on technologies, because I think we have so abused outdoor water use. I was at a conference in England in April speaking on this, and most of the people there were from England but also Australia and some other parts of the world in Europe. And I was frankly quite embarrassed to report some of the numbers about outdoor water use in the U.S., because you look at certainly Europe, and in those parts of the country is just, it wasn't an issue.

COUNCILMEMBER PONTANILLA: Thank you. And one more question. As far as the state of Florida, all of their resources are from that state or do you have any water that comes from out of state feeding Florida?

MS. VICKERS: Well, that's a good question. Does any water in Florida come from out of state? I'm mostly familiar with central and south, southern Florida. But my understanding is the northern part of Florida, some of the water districts there, they're actually locked in some battles with Alabama and Georgia over withdrawals from some shared river resources. Most of central and southern Florida get their water from groundwater, and it's quickly becoming depleted and more brine. And, you know, that's a big problem. I, I just finished a survey of landscape ordinances in central and south Florida which is, you know, where I cited some of those statistics earlier about, you know, requirements. And pretty much, you know, anywhere from central Florida, you know, to southern Florida, pretty much every community and water district has a whole set of restrictions not only on what days you can water but, you know, how much turf you can have, what kind of irrigation, width of medians. They're, they're getting quite extensive in their specifications for landscape ordinances, and one of them was over 50 pages that I reviewed. So, you know, it's an issue there too.

COUNCILMEMBER PONTANILLA: Thank you. So northern Florida does have a restriction ordinance in regards to their consumption?

MS. VICKERS: Northern Florida I would say I'm not familiar, I honestly have not worked there. . . .*(change tape, start 2A)*. . . Northern Florida tends to be wetter. Some of the withdrawals from northern Florida, again, I know are in some legal dispute because of shared supplies with Alabama and Georgia.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

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

VICE-CHAIR VICTORINO: Thank you, Madam Chair. Thank you, Ms. Vickers, for being with us and sharing your, your knowledge and experience. I think it's heartwarming to get someone like you with your status and your background to assist us. The question I have for you is, on this 70 percent outdoor, especially in dry areas like Hawaii and California and other areas, this is basically the amount of water the utility is reporting as

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being used. And you're saying approximately 70 percent of that goes directly for outdoor irrigation?

MS. VICKERS: I'm sorry. I didn't hear the second part of, of your question, sir.

VICE-CHAIR VICTORINO: That the 70 percent usage of water is directly used for outdoor irrigation?

MS. VICKERS: Well, just back track, I thought what I said earlier is, you know, is the EPA has a national statistic that about half of all, you know, urban water use is for outdoor water demand and much of that wasted. I thought, what I hope I said after that is that, you know, in some communities it's as high as 70 percent. You know this varies so much, that's why I hesitate to make generalizations, and certainly, you know, your water-use patterns and rainfall patterns, et cetera, in Maui are very different from the mainland. So, you know, I, the 50 and 70 percent numbers are big generalizations.

VICE-CHAIR VICTORINO: Okay.

MS. VICKERS: They don't apply everywhere.

VICE-CHAIR VICTORINO: Okay. And the next question I have for you is, you know, being an island community and Mr. Pontanilla touched upon it as far as island nations. But just being an island State where we cannot depend on outside sources other than what we have right here on this island, we can't even count on our sister islands for water usage, I mean water sharing. How many of these communities that you've talked about, and you said you worked with like over 100 different areas and communities as far as water usage, how many of these are what I call self-sustaining? I mean water that they get is all theirs, they manage their own water, they're not interdependent or sharing with any other municipalities, states, counties, or other jurisdictions?

MS. VICKERS: Good question. Very few. I mean my mind is racing trying to find one. I did a little bit of work in the Cayman Islands but it was many years ago. You know, certainly your situation is unique. I mean I've worked with small rural systems that don't have interconnections and, you know, in sitting in meetings with them when they're concerned about supplies I think they may feel like an island. But, but in real terms they're not. You know, certainly the, you know, the status report that Director Eng has shared with you and the comments of, of some of the Members, I mean I would certainly be very concerned if I was in your shoes. I think your situation is serious, and it's particularly serious because as you point out there you are an island state. And you would be, you know, greatly challenged if one of your supply sources went down. I mean, you know, with the help of emergency technology you could get by for awhile, but, but that's not the way you want to, you know, run your system long term. And certainly from an economical standpoint, you know, that would be true.

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VICE-CHAIR VICTORINO: Okay. And the last question I have, as you heard our Director mentioned about our water system standards, the redundancy or the two-thirds of two-thirds. Your knowledge as far as other municipalities and other jurisdictions, how many of them follow similar patterns, or are there different policies for various areas? And just a quick overview on what kind of policies would you be referring to?

MS. VICKERS: I would say that I don't have a lot of expertise on redundancy standards, and, but what I would say, you know, having worked in, you know, at Capital Engineering, you know, Department for a couple years in Boston. You know, redundancy is essential and, you know, every system has its unique redundancy requirement. But other than that, again I really don't have expertise in that area and wouldn't want to pontificate on it.

VICE-CHAIR VICTORINO: Okay. Thank you, Ms. Vickers. Thank you, Madam Chair.

MS. VICKERS: Thank you.

CHAIR ANDERSON: Thank you. Thank you, Mr. Victorino. Any other questions, Members?

COUNCILMEMBER PONTANILLA: Yeah, I have.

CHAIR ANDERSON: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Ms. Vickers, can you comment on integration of water systems? You know, you've been on Maui and we do have a water system for Upcountry and a water system for Central Maui which could be integrated. But going to West, West Maui would be a problem in regards to the high cost to doing that. Can you provide us with some comments on integration and what you think about it?

MS. VICKERS: I can say a few general comments. You know I, I spent a week or so in Maui earlier this year and, you know, was introduced to your system. I can't say I know it as well as all of you do. But, you know, these issues of redundancy and integration are essential, and I know that they were some comments mentioned earlier that Upcountry and Central Maui that, you know, there's some new options there but there's some community opposition. You know again I'm not closely involved with all the goings on with that. But, you know, if it was me I would look more closely at, at some of those options and how the community might better understand the benefit of, of development and connection with those supplies. So, you know, I'm speaking very generally on that. But, you know, the extent you can have more interconnections and, you know, most efficiently utilize your options, the stronger and more robust your system is.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Ms. Vickers. Thank you, Chairman.

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CHAIR ANDERSON: Thank you, Mr. Pontanilla. Ms. Vickers, if you could give us some idea of your experience with Palm Beach, Florida, because I see Palm Beach, Florida as very comparable to sections of Maui, --

MS. VICKERS: Right.

CHAIR ANDERSON: --specifically Wailea, where we have high end hotels and very expensive housing with very lush landscaping. And I've been to Palm Beach and it's very similar. So do you have any experience with that section of the south Florida water district and what their experience has been with water restrictions?

MS. VICKERS: Yes, I have some. I would be happy to speak on them, Madam Chair. What you said, Palm Beach, in Palm Beach, counties are in the south Florida water management district. And under normal conditions south Florida allows a three-day-per-week watering restriction. So every community, every county, every city including Palm Beach in south Florida must meet that three-day-per-week restriction. But, you know, because of the severe drought restrictions, south Florida has had since the spring of this year or April they have been on a two-day-per-week restriction, and that's exactly what Palm Beach County has followed. They really haven't any choice. And again the supplies to homes and businesses and, you know, from what I can see in my understanding and, you know, knowing people in south Florida, there really hasn't been resistance to these orders because again I think there's an understanding there's really no choice here. And the other thing I would is that, you know, Palm Beach and other communities like it in Florida at this point I think are now veterans at drought restrictions. And many of these systems are just used to adapting to a two- or three-day-per-week restriction. Some of them do use reclaimed water, some of them also rely on private wells. But it's interesting to note that more and more what we're seeing is that watering restrictions are now starting to apply also to private wells and in some cases to reclaimed water, where until I would say a year or so ago, you know, you know, private wells and reclaimed water were considered hands off. You would never restrict them, whereas now we're starting to see rules. So again going back to Palm Beach, yes, they're currently under a two-day-per-week restriction, and I think they, like other adjacent communities, are just working with it and doing fine.

CHAIR ANDERSON: Okay. Thank you, Ms. Vickers. I would note that I visited the Four Seasons here in Wailea and they, they have instituted conservation measures I'd say for the last year and a half and, you know, putting in drought-tolerant groundcovers, switching out some of their plantings to native plants. But it's still a very tropical-looking landscape. They've used, put in drip irrigation, and they, they told me that they don't have a problem with the three-day-a-week schedule. In fact, you know, I mean they're fine with it so. They did want, actually they were okay with two day a week. They just wanted three days a week for their big lawn areas that they use for special events. So, you know, it appears to me that if, if a hotel is willing to invest in some conservation measures, putting in drip irrigation and changing out some of their groundcovers, that they could survive just fine with this three-day-a-week scheduling.

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MS. VICKERS: Madam Chair, if I could just add on to what you're saying. I think you bring up a good point. The, you know, and this speaks also to a comment by one of the early witnesses, a gentleman was talking about, you know, if we had good education, we don't need these type of restrictions. And I would, I would, I would disagree with that because I think again what we've seen is that education alone does not do it. But it is true that if you're going to have an ordinance that specifies restrictions, it's very important to have a very positive outreach campaign to the public that educates them about the need to adhere to the restrictions but also the opportunity to save water as a result.

And Chair Anderson made some very good points about Palm Beach and I would say many other communities in Florida and elsewhere, that because of these restrictions there's been an embracing of native and adaptive plants, and so commercial nurseries are now starting to tag plants. They're starting to promote, you know, establishment of, and these more water-thrifty plants. In some cases it's increasing their business, but again the public is naturally drawn toward that.

And one program that might interest you that kind of a public/private partnership along these lines, the southwest Florida water management district, which if you go western Florida, go more towards Tampa Bay, that's the area I'm talking about. They are now at a two-day-per-week restriction, they were down to one day per week, I believe earlier. But anyway they have a permanent program and it's called the Landscape Education Coordination Initiative. And it, it's essentially working with what we call the green industry, landscape contractors, commercial nurseries, irrigation product and service providers and really helping them to educate their customers about what's the right kind of plant to put in that will be easy water in a water-efficient way. It will help them to comply with local restrictions and will give them a beautiful landscape. And it's a wonderful program. I think it's actually boosting business for the local green industry, and I personally think that one of the nicest benefits is that what we're seeing in parts of Florida as a result of these kinds of initiatives is more of a restoration of the natural beautiful environment that people came there for in the first place. And I think you would see some of that in Maui as well. You would, you would over time see a lot of your native plants coming back. Because they're going, they're going to thrive on loving neglect.

CHAIR ANDERSON: Thank you, Ms. Vickers. Okay. Members, any questions? I think what we'll do is take our morning break so we can come back and dive into the bill, into the enforcement section. Corporation Counsel Kushi has redrafted that section and...have you passed it out yet? So we'll have Ms. Willenbrink pass it out. It includes a section for warnings, which we thought was an important thing to do. So, Members, Ms. Vickers, thank you so much. We'll take a ten minute recess and reconvene at 10:35.

MS. VICKERS: Okay. Thank you.

CHAIR ANDERSON: Committee in recess. . . .(gavel). . .

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RECESS: 10:22 A.M.

RECONVENE: 10:42 A.M.

CHAIR ANDERSON: . . .(*gavel*). . . Water Resources Committee is now reconvened. Thank you for that break. So, Members, I'd like to open our discussion up before we go on to the enforcement provision. And you'll see that we passed out a new draft on the enforcement section that Mr. Kushi worked on for us, and it adds a provision for a warning that we discussed at our last meeting. We, we do count on the Department to put forward an education program, but actually enforcement will also be a part of the education. Not everybody reads the paper, and hopefully we can get something mailed out in water bills. I'm not certain that that's going to happen but at least some kind of notification. We will do some educational programs. I'm hoping to do something on *Akaku* to help get people informed about this. But I think a warning is also a way to educate people if they're watering at an inappropriate time or allowing water to run down the gutter. This would be a way for them to be educated by giving them a warning before we issue a violation. So we will go into that as soon as we tighten up the current sections that we've already received consensus on. And I know that Tui Anderson from the Department has a couple of suggestions he'd like to make for us to add in for exemptions that we hadn't thought of. So, Members, if you want to take your bill, it should be in your binder if you didn't get a handout. Yeah, Ms. Willenbrink is going to dim the lights so that you can see the bill on the wall. Maybe, maybe one light for me would...oh dear. That's good enough. You can read it, yeah? So I'm going to let Mr. Anderson give us some suggestions, and then, Members, I'll open it up for any questions that you have also. Mr. Anderson.

MR. ANDERSON: Thank you, Madam Chair. A couple exemptions that I see needing in there. Exemption for the Department, for us, wording something like flow resulting from routine inspection, operation, or maintenance of a utility water system. We would need something like that. And then also...

CHAIR ANDERSON: And wait. Let's wait, let's wait, just one at a time.

MR. ANDERSON: Okay.

CHAIR ANDERSON: And that, and that is because we have a prohibition of water running down the streets.

MR. ANDERSON: Correct.

CHAIR ANDERSON: And so you want a provision that would allow the Department to flush fire hydrants and flush mains and all of that?

MR. ANDERSON: Correct.

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CHAIR ANDERSON: Yeah. Okay. That's totally appropriate. Members, any objections? So let's see, you want to just add it. Where's the exemption that we have for...we'll just add it on the bottom of exemptions and if we need to renumber or put it in a more appropriate. Okay. Mr. Anderson, you want to go on while Ms. Willenbrink is typing that?

MR. ANDERSON: Yeah. Another exemption would be flow resulting from firefighting, or a routine inspection of fire hydrants, or from fire training activities.

CHAIR ANDERSON: That's the one she's typing right now. Okay. That's fine. Just keep going, Kim. You know, to save time I had written out these exemptions that you gave me and given them to Kim.

COUNCILMEMBER PONTANILLA: Can you read that again?

MR. ANDERSON: It would be flow resulting from firefighting, or routine inspection of fire hydrants, or from fire training activities.

CHAIR ANDERSON: Any objections, Members?

COUNCILMEMBER BAISA: No.

CHAIR ANDERSON: Okay.

COUNCILMEMBER BAISA: Chair?

CHAIR ANDERSON: Ms. Baisa.

COUNCILMEMBER BAISA: You know, I just thought of something. At least twice in recent history I have been, had an interesting experience of coming upon a fire hydrant that was damaged due to an automobile accident, and there's a geyser going up in the air. I mean, it's a geyser, and until the Water Department person can be there to turn it off it's a mess and thousands and thousands of gallons gushing up into the air. That's not routine and that's not maintenance, and that's not fire. That's just some car whacking it and it just goes.

CHAIR ANDERSON: Well, I don't think that we can cite the Department for a violation --

COUNCILMEMBER BAISA: No. I'm thinking we need to --

CHAIR ANDERSON: --caused by an accident.

COUNCILMEMBER BAISA: --exempt it. But what, maybe we can add accident in there.

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MR. ANDERSON: Could do something like flow resulting from temporary water system failures or malfunctions.

COUNCILMEMBER BAISA: Sounds okay.

CHAIR ANDERSON: Okay. That covers that. Thank you, Ms. Baisa. Any other concerns or comments, Members? Okay. Mr. Kushi has some additions for us. Is that it, Mr. Anderson, for now?

MR. ANDERSON: Two other quick things. Well, one quick thing, just for the, everybody here is listening information. As far, for 2006 consumption these are million gallons per day. The percentage of, approximate percentage of outdoor residential irrigation use for the entire Central district it's about 55 percent of residential use is for outdoor irrigation. In Wailuku and Kahului it's about 42 percent. Kihei, Makena, Wailea area it's about 68 percent.

CHAIR ANDERSON: And, and these uses, Mr. Tui, are from the Water Use and Development Plans...

MR. ANDERSON: Correct. These are from our consultant. Carl Freedman came up with these numbers.

CHAIR ANDERSON: The working draft. Yeah.

MR. ANDERSON: Yes. Yes.

CHAIR ANDERSON: So, Members, that, that gives you an idea of where we stand with outdoor use for Central and South Maui.

MR. ANDERSON: Residential outdoor use. Yeah.

CHAIR ANDERSON: Residential only. Any questions? Mr. Mateo.

COUNCILMEMBER MATEO: Madam Chair, thank you. So would you have additional breakdowns for the rest of the districts as well?

MR. ANDERSON: I do believe...I don't have those with me. I do believe he probably has worked out for Upcountry and we're farther along on the Water Use and Development Plan on the Upcountry and Central. I'm not sure if he has the West Maui or Molokai.

COUNCILMEMBER MATEO: No. Sometime, if we could just get that information because I think it's very interesting, you know, especially when we now can take a look at a district and we know who the hell using all the water.

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MR. ANDERSON: Yeah. Within, as the updates for the Water Use and Development Plan come up I assume you get the updates of those or can, or can get those updates. That's where those numbers will come in. And Carl puts out updates pretty frequently and I think whenever there is a new one. It's always on the website or that maybe you guys get those as they come up too.

COUNCILMEMBER MATEO: Terrific. Thank you very much. Thank you, Madam Chair.

CHAIR ANDERSON: And I hope that we'll be able to get another update from Mr. Freedman before the end of this year, Members. I'll try to get that on our schedule. Any other comments or questions? Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chairman. The Chairman of this Committee passed out the draft user interface feature definitions, and earlier one of the testifiers talked about weather-based exemptions. Kind of interesting on Page 2 regarding ET. Can you provide us with some kind information or what do you think about the utilization of weather-based exemption? ET?

MR. ANDERSON: I think the use of ET systems, I think it's definitely a good way to go. One thing with not exempting the ET systems that I would be a little concerned with would be some of the large hotels which use them, this is where they will be affected. The golf courses won't be affected because we already have them kind of exempted. So it would be the large hotels, and a lot of the large hotels are using the ET systems. Now, say they go to, we put this ordinance through and they have to, they're restricted to their three days. There could be instances where they will end up over-watering like, say on the last day, say they, for example, they would have a Monday, Wednesday, Friday schedule. And their ET system tells them that they wouldn't need to water on the Friday, because they had a little rain on Thursday or it's been overcast. But they will probably end up watering that day anyway because they're not sure what's going to happen on Saturday and Sunday. So they don't want to have their plants stressed. So there could be, I think the ET systems are a very good way to go. I think it's, it seems like the technology is really coming along, and there, right now there aren't any residential uses of it. The system is being worked on and it will be, I think it will be up and running for residential use shortly. So right now it's used in golf courses and in large hotels.

COUNCILMEMBER PONTANILLA: Yeah. I was kind of wondering in regards to, I know the, except for two golf courses every one of them uses ET.

MR. ANDERSON: Yeah.

COUNCILMEMBER PONTANILLA: And, and...

CHAIR ANDERSON: Could you put your mic closer, Mr. Pontanilla?

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COUNCILMEMBER PONTANILLA: I'm sorry. Yeah. As a testifier had testified it this morning that most golf courses except for two, Maui Country Club as well as Pukalani, don't have that particular equipment on their courses. So in regards to having it included in the ordinance for golf courses, I understand where you're coming from in regards to the hotels. You know it would be a problem for them that they would over-water on the Friday. But if somehow we could work out something in regards to the weekend.

MR. ANDERSON: Yeah. I'm, that's, I'm not sure how, I mean it would be, the only way we would know for sure whether it would end up, you know, if they would end up using more water or less would be time and, you know, checking. But a lot of these hotels have these systems going and if they had to get restricted to three days a week they could very well abandon their ET systems. And that probably would end up...

COUNCILMEMBER PONTANILLA: Following this proposal?

MR. ANDERSON: Yeah. They would follow this and they would probably end up, I don't, I mean probably, maybe end up using more water. I'm not sure. I would almost, now that we have a little more specifics of where the ET use is going, I would almost wonder what Amy Vickers has to, her comment on this specific part of the ET system would be.

MS. VICKERS: In fact if I could chime in, Madam Chair. I did want to make a few comments.

CHAIR ANDERSON: Yes. Please do, Ms. Vickers.

MS. VICKERS: The first thing is, is whether you have an ET or weather-based controller, most of them have manual overrides. My experience is that golf courses, hotels, high-end properties even if they have an irrigation controller or weather-based controller on the site, they are so attuned to what they want to do in terms of irrigation, they're often really doing manual irrigation runs. And so, you know, as I said earlier if, with a three-day-per-week schedule I don't anticipate you would have any problems with these properties not having enough days to water. And in instances where it was particularly dry, again you have the hand watering option that could be employed. And again whether it's the standard irrigation controller or a weather-based controller, most of them have manual overrides. And so, you know, they could anticipate if they were expecting a dry spell, which I wouldn't really anticipate would be an option, because essentially you're letting them water with their systems every other day. You know I mean they're really only going about a day without watering with their automatic system. If they were so concerned, they could always hand water, you know, a problem area.

CHAIR ANDERSON: Thank you, Ms. Vickers. And I would like to mention again, Members. I visited with the Four Seasons, spent many hours with them. They have all these systems, ET systems and they have no problems with the three-day-a-week. So I think that...and they are the biggest landscaped hotel on the island. So I think that they are an example for others to follow, and those who think they can't manage on three days a

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week or without an ET exemption should visit with the folks at the Four Seasons who are very proud of their efforts. And I'm sure would be happy to assist them.

COUNCILMEMBER PONTANILLA: Thank you for that information, Chairman. I think all of us received an e-mail from the Grand Wailea. And the Grand Wailea had indicated that it would be something that probably would cause a hardship for them. So, you know, what you're saying, Four Seasons is great. Grand Wailea is another property that's saying it's going to be too restrictive for them, and that's the reason why I bring up this subject.

CHAIR ANDERSON: Well, I guess Grand Wailea needs...pardon me?

MS. WILLENBRINK: It was when it was two days.

CHAIR ANDERSON: Oh. That's when it was two days. We're now at three days, watering three days a week. So I think the Grand Wailea can manage on three days a week if the Four Seasons can. So...

COUNCILMEMBER PONTANILLA: Follow up.

CHAIR ANDERSON: Pardon me?

COUNCILMEMBER PONTANILLA: We'll follow up. Yeah.

CHAIR ANDERSON: So, Members, I want to give Mr. Kushi the opportunity to give us some clarifying language on the provisions that we went over. There was a concern that one of the engineers in the Water Department thought we needed to clarify the time restrictions, because we are limiting irrigation to Tuesdays, Thursdays, and Saturdays and then Sundays, Wednesdays, and Fridays. But yet we are allowing them to irrigate between 6:00 p.m. and 9:00 a.m. so there's two days in that timeframe, from midnight to 9:00 a.m. is another day. So we need to clarify that in our language. So, Mr. Kushi, you have that for us and any other language you'd like to propose?

MR. KUSHI: Yes, Madam Chair. I would direct the Members to Section A of that Section 14.03.030, . . . *(change tape, start 2B)*. . . Subsection A, the second full sentence where it currently reads, "All irrigating shall be restricted to the hours between 6:00 p.m. and 9:00 a.m." To clarify, we would want to change that to read, "All irrigating shall be restricted to the hours between 6:00 p.m. on the designated day to 9:00 a.m. the following day."

CHAIR ANDERSON: Thank you for that, Mr. Kushi.

MR. KUSHI: Also, Madam Chair...

CHAIR ANDERSON: Wait. Wait. Let's just see if any Members have any questions on that. That makes it very clear. Okay? Thank you, Mr. Kushi.

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MR. KUSHI: Yes. Madam Chair, at your request I would also like to add another provision under Subsection C...no, strike that. The last section of, subsection of 0.030.

CHAIR ANDERSON: After, okay.

MR. KUSHI: Right. Right now it's, it reads "F, the provision of this section shall be reviewed."

CHAIR ANDERSON: Yes.

MR. KUSHI: Add another one to include, reference the drought declaration, Kim, which would read, "The provisions and restrictions of this section shall be subject and subordinate to the provisions or restrictions contained in any drought declaration."

MS. WILLENBRINK: I'm sorry. I'm having a computer difficulty.

MR. KUSHI: Okay. Let me read that back.

MS. WILLENBRINK: Not even ready, I can't get the otype load to go off. Clarita, do you have any suggestions?

CHAIR ANDERSON: Mr. Kushi, are you sure you want to say drought declaration instead of drought emergency? Because we're looking to save more water than a 10 percent reduction from a drought declaration.

MR. KUSHI: The way I understand it, Madam Chair, is that whenever and whoever declares a drought, it's a drought declaration. They can either do a warning, a watch, a warning and an emergency. So that declaration has various levels of restrictions.

CHAIR ANDERSON: Okay.

MR. KUSHI: The intent, Members, being that if, if push comes to shove and the declaration is, drought declaration is declared it may be stricter than the terms of this bill, and the declaration would supersede.

CHAIR ANDERSON: But if it's not stricter? I mean I would hate to see us call it drought declaration and ask for like a voluntary 10 percent reduction and then have that supersede the three-day-a-week watering. I mean then people could water every day if they wanted.

MR. KUSHI: No. Madam Chair, the intent being that, maybe it's not clear, but if a drought declaration says 10 percent mandatory cutback, then the water, and, and that, and that's it and no reference to watering schedules, the watering schedules will continue. But the declaration may say 10 percent cutback and watering only once a week --

CHAIR ANDERSON: I see.

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MR. KUSHI: --for everybody.

CHAIR ANDERSON: Well, would it, would it hurt for us to just say shall be subject to any drought declaration rather than subordinate to? Because then...

MR. KUSHI: That's fine. That's fine.

CHAIR ANDERSON: You know, we want this to be a standard irrigation policy.

MR. KUSHI: For now it would be.

CHAIR ANDERSON: Pardon me?

MR. KUSHI: For now it would be. You need to review this next year.

CHAIR ANDERSON: Yeah. Right. But it's not our intention that this is a, you know, subject to drought as much as just a change in watering policy as far as outdoor irrigation. So I would be more comfortable leaving subordinate out. Because if it's subject to and the drought declaration is more stringent, then it's still going to apply. Correct?

MR. KUSHI: That's acceptable, Madam Chair. Subject to the provisions and restrictions contained in any drought declaration.

MS. WILLENBRINK: Could you show me the section again please?

MR. KUSHI: It'd be a new one.

CHAIR ANDERSON: At the end of the...after, yeah, after that. Thank you, Mr. Kushi.

MR. KUSHI: Madam Chair, if I may? I've had, I had couple other questions. Maybe you don't need to include it in, in the, in the exemptions. But it's assumed, I'm assuming that commercial car washes are exempt from this, this bill. I'm also assuming that water fountains or decorative waterfalls are also exempt from this bill.

CHAIR ANDERSON: Yes. Because they are not considered irrigation purposes. So we specifically left them out.

MR. KUSHI: Okay. Madam Chair, finally under Section C, regarding the exemptions. C-1, where it currently reads, "Irrigation by commercial or private nurseries or farms qualifying for agricultural rates."

CHAIR ANDERSON: Right.

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MR. KUSHI: I would advise to knock out the section "or private" and I would just also put a period after "farms". Therefore, it would read, "Irrigation by commercial nurseries or farms." The intent being that, you know, private can be, you know, private and commercial are two different animals. Commercial you, it's assumed that they make income from it. Private you can use it for personal reasons which will be covered by the section immediately below, irrigation for personal food gardens. And the problem comes when, when you say qualifying for ag, agriculture rates. If they're on County system that's okay because there's a method they can qualify for reduced rates. But this bill applies to private systems, and I'm not sure if they have a differential rates between private, I mean personal, commercial, ag, or, or whatever.

CHAIR ANDERSON: Well, I know of at least one private water company that has agriculture rates. And the reason that we did this is we didn't want gentlemen estates who may be on ag land to have an exemption when other residential properties don't. So...

MR. KUSHI: Well, there wouldn't be an exemption because they would have to be commercial in nature.

CHAIR ANDERSON: Well, and my other concern with that, Mr. Kushi, is what about our hobbyists who have orchid nurseries and propagate plants for their personal use? You know and, I mean I know quite a few people that have personal nurseries that they use just for as a hobby. And I think we shouldn't exclude them just because they don't make a living off of it or make money from it. So...

MR. KUSHI: Okay. Madam Chair, this is just my suggestion because I'm looking in terms of enforcement. And it may be a close call if they appeal a citation, and if you, I mean private nurseries or farms can mean anything from a small plot to ten acres.

CHAIR ANDERSON: Well, if it's ten acres of grass, then we've got a problem. But if it's ten acres of strawberries we certainly want them to be exempted.

MR. KUSHI: They would be under No. 4, personal food gardens. But, but, you know, I'm not going to belabor this, Madam Chair. It's your call.

CHAIR ANDERSON: Okay. I'm going to open that up for discussion but I want to give Ms. Willenbrink a chance to put in G. 'Cause we moved on too fast, Mr. Kushi, and she wasn't able to get the language there. So let's go back to G, "The provision of this section shall be subject to any drought declaration." Is that correct, Mr. Kushi?

MR. KUSHI: Yes. The new provision, new section would be, "The provisions and restrictions of this section shall be subject to the provisions or restrictions contained in any drought declaration."

CHAIR ANDERSON: Okay. Members, any problem with that? Okay. Seeing none, we'll, we'll put that in. So let's go back up to...you done with that, Kim? Let's go back up to

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item three, and this as it is right now is how we had it at the last meeting and received consensus. And I believe it was Ms. Baisa who suggested that we put “qualifying for agricultural”, actually it should be “qualifying for agricultural water rates.” Right, Ms. Baisa?

COUNCILMEMBER BAISA: I don’t remember. But I know we had a discussion about ag water rates and how few people receive them.

CHAIR ANDERSON: Yeah. I think you said there were 700 people getting ag water rates. Well, actually last year we got a listing from the Department.

MR. ENG: Excuse me, Madam Chair. We have about 700 customers receiving ag rates.

CHAIR ANDERSON: Okay. And the purpose of that, just to refresh you, your memory, Ms. Baisa, was that when, before the Department will give ag water rates to somebody they go out and inspect to make sure that they are.

COUNCILMEMBER BAISA: Right.

CHAIR ANDERSON: So that’s why we put that in. And Mr. Kushi’s concern is that it may not apply to private purveyors because they may not have ag water rates. But I know that Wailuku Water Company does. Do you have something you’d like to add?

COUNCILMEMBER BAISA: Yeah. I think my concern was that I didn’t want the, you know, if everybody’s going to have an exemption then, you know, what are we going to get out of this? And I was trying to preserve or protect rights of people who actually have been looked at and have been certified for ag water rates rather than people who just have an ag water meter. I think the figure they gave me was like 34,000 meters on ag property and only 700 qualifying for ag rates, and that’s, that’s a big difference.

MR. ENG: Madam Chair, if I may correct Member Baisa? No, we have about 34,000 to 35,000 meters in total, in her system of which around 700 customers receive the ag water rates.

COUNCILMEMBER BAISA: How many on ag land?

MR. ENG: Well, they’re all supposed to be on ag designated land. There have been a few exemptions and I think some parties have been before this body to appeal our earlier decisions.

COUNCILMEMBER BAISA: When I checked with your people, I did that before the last meeting, and you know, our problem is we wait so long between these meetings and we don’t have minutes to look at that we can’t remember. But anyway, the reason I was checking was for some other reason and there was this humongous difference between the number of people who have meters on ag land and the number of people who actually

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qualify for ag rates. And that's because we know that a lot of people on ag land are not doing ag. And that's the number I was trying to check out.

MR. ENG: Okay.

CHAIR ANDERSON: So, you know, I like the, the qualifying term for, qualifying for agricultural water rates. Because we certainly don't want somebody on a ag land who is not doing farming or is not, I mean if you were doing farming you would definitely want to get agricultural water rates because it would affect your bottom line. So I think we need to have a qualifier in there and, you know, if private systems don't have ag rates, they should. And maybe this would be an incentive for them to give a break to their ag users. Any problems with the language as it stands, Members? I appreciate Mr. Kushi's concern but I think we need to make sure that we're not penalizing private nurseries, and I don't know that there are that many, but I do know some people who do, as a hobby, propagate orchids, bromeliads, whatever, for their own personal use. And I don't think we should penalize them while we give commercial nurseries a break. So shall we leave that language as stands? Do I have a consensus on that?

COUNCILMEMBER MATEO: Yes.

CHAIR ANDERSON: Okay. Thank you, Members. All right. Any other questions or concerns on the bill? Oh, I wanted to bring up something. Mr. Kushi, on the definition you put, Members, as you'll note, please look at the definitions. We added in what an address means, we defined an address, it means a house number. That together with the street name describes the physical location of a specific property. And then we added even-numbered address and odd-number address so that's easily defined so people understand if you're, if the last number of your address isn't one, three, seven, five, seven, or nine you are an odd-numbered address and conversely the same for even. And then we added in a definition for drip irrigation, it means low pressure, low volume irrigation applied slowly near or at ground level to minimize runoff and loss to evaporation. So hopefully those people who can utilize drip irrigation will take advantage of it, and this should bring some business to the irrigation industry for people to change out to drip irrigation where it's appropriate. And then the, the definition that I wanted to mention, Mr. Kushi, you put in a definition for irrigation that says, it means the use of water for grazing, agricultural, and landscaping purposes. We had another definition in a previous bill that said irrigation means to supply land with water artificially. Would you have a problem with that?

MR. KUSHI: Madam Chair, what bill was that?

CHAIR ANDERSON: That was the original bill back in December. I think Tui's got a copy of it, he can show it to you.

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MR. KUSHI: Well, Madam Chair, what I, what I did was there is a, in Title 14 somewhere, general provisions. There is a definition of irrigation so I'm just amending that to include landscaping. So I didn't know about the other new definition.

CHAIR ANDERSON: Oh. We already have a definition in 14?

MR. KUSHI: Right.

CHAIR ANDERSON: And so you're amending it for this section to include landscaping?

MR. KUSHI: That's, that's all I tried to do. Right.

CHAIR ANDERSON: Okay. Is that fine with all the Members? Okay. We'll leave it as it is then, Mr. Kushi. Thank you. Okay. Members, any other questions or concerns about the bill up to the enforcement section? Ms. Baisa.

COUNCILMEMBER BAISA: I have a question, and this is a result of several e-mails that I've received. There is a concern that has been expressed to me about applying this bill to private wells, and whether that is appropriate. And the other thing is when we tie it into this Upcountry availability or this water availability worksheet that we got today, these availability worksheets do not include private well figures. I'd like the Director to comment.

CHAIR ANDERSON: Well, they don't, they don't include private well figures because this, these are County system figures. And the reason that we didn't include, the reason that we included private wells as many other jurisdictions have done, private water systems, is because they all draw from the same aquifer. And because of public perception it's difficult to allow someone unlimited use while you allow other people or while you're restricting other people. So that's the reason that we included all water users. And remember whether it's a private well or not they are drawing on a public trust resource. So, Mr. Eng, would you like to comment on that?

MR. ENG: Thank you, Madam Chair. I think you explained it best. I believe that by allowing the private water systems to do otherwise it just wouldn't really be fair for the rest of the community on the public water system. And I think we should treat this island as a whole, and so I think that what we do with this ordinance should be applied everywhere.

CHAIR ANDERSON: Thank you, Mr. Eng. Ms. Vickers, would you like to comment on that?

MS. VICKERS: Yes, I would. And just to underscore both, you know, what people have said. The other problem if you allow exemptions for private wells is that, you lose your credibility for enforcement, and how will an enforcement officer know, you know, who's watering, you know, from what source. It becomes a real headache and then people start putting up signs. It essentially doesn't work very well. And as I said earlier, if you look at communities that are imposing watering restrictions, more and more we're seeing them

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applied to private wells really for this, for these reasons. To be equitable, you've got to include everyone, and again there's just, to have a meaningful enforcement program you've got to include private wells as well.

CHAIR ANDERSON: Thank you, Ms. Vickers. Ms. Baisa, then Mr. Pontanilla.

COUNCILMEMBER BAISA: Follow-up question, Chair. And there is no legal issue with that, Corp. Counsel?

CHAIR ANDERSON: Mr. Kushi.

MR. KUSHI: Yes. Madam Chair, Member Baisa, I'm sure there will be and I kind of expect it. But our office will defend this ordinance vigorously, and I believe the public trust doctrine gives us impetus to protect that, the resource.

COUNCILMEMBER BAISA: Thank you.

CHAIR ANDERSON: Thank you, Ms. Baisa. And also in your binder, I don't have it in front of me right now, but there are many jurisdictions, I researched this, who already have ordinances that include...this is an ordinance from Florida. "The provisions of this ordinance shall apply to all persons residing in the unincorporated area of Sarasota County who use water resources whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies." So I found at least four jurisdictions that include both private and, and actually the ordinance that says it, not just a notice. So I feel confident that we're doing the right thing. But thank you for asking the question. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. My question was similar to Member Baisa in regards to, you know, regulation of the private wells as the implication if we going get sued by private individuals. How do we handle though those residential users that have private wells? Same thing?

MR. ENG: Madam Chair and Member Pontanilla, again the enforcement program will initially start as a complaint-driven program. So obviously, you know, there'll be some complaint called into the Department and we will go out and investigate. So, you know, that's how it's going to happen initially. We won't have the staffing or the time to go out and, and patrol. But we will do our best and definitely respond to complaints. But in regard to private water systems themselves, you know, my experience I did manage a private water system in a resort area and, and there were other, another large private water system for a resort area. Those particular systems tend to use the most water per residential unit, and those are exactly the, our target audience. You know as I might have indicated earlier our, you know, our average single-family residential customer is probably, you know, less than 15,000 gallons per month in consumption, whereas in some of these resort communities, the average single-family residential customer is 50,000. So more than three times consumption, and where is that water going? It's going for outdoor irrigation.

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So these again are the customers and the users that we really want to target. So I think we need to include the private water systems.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR ANDERSON: Thank you, Mr. Pontanilla. Okay. Members, let's move on to the enforcement section. Mr. Kushi gave us another draft and it should be a handout that you have, separate handout that just has 14.03.035 enforcement. Do you all have that, Members? Was that, a handout this morning. It actually says enforcement at the top, Ed's version. He reworked the...everybody have it? Mr. Victorino? Okay. This section replaces what we have in the bill because it allows for a warning, notice of violation and warning. Any person violating any of the provisions of section, Mr. Kushi, do you want to tell us, 'cause I haven't had a chance I just actually got this, this morning. I'm sorry. But it seems to me that it reads much better than what we have within the bill right now. So I guess I should just go through this verbally so that people who are listening, we, we don't have it up on the, on the wall. Notice of violation and warning, any person violating any of the provisions of Section 14.03.03 [sic] above shall be served by mail, return receipt requested, or personal delivery with a notice of violation and warning. The notice of violation shall state the date of the notice, the name and address of the person noticed, the nature of the violation and the specific section number violated, and location, time, and date of the violation. The warning shall state to cease and desist from the violation, if necessary, to correct the violation at the persons own expense before a specified date. And C, warn the violator that any future violation of any provision of Section 14.03.03 [sic] above within an unspecified number of days of the date of the notice of violation and warning may result in the violator being served with a notice of violation and order. So, Mr. Kushi, you left that blank, I'm assuming you want us to decide how many days.

MR. KUSHI: Yes, Madam Chair. And again it's at your discretion. But I would say not, I mean more than 30 days and maybe less than a, between 30 and 90 days. The intent being that before we start issuing violations and orders, which then they have to pay the fine, you warn them first, you know. And then within a specified time period if they continue to violate, not only the initial warning, violation that caused the warning, but any other provisions of the section, then they get served an order.

CHAIR ANDERSON: Right.

MR. KUSHI: So but if you make it too short a time, then the Department would just continually be issuing warnings.

CHAIR ANDERSON: So, you mean 30 days is too short?

MR. KUSHI: It might be because, you know, that 31st day they violate it again, then, you know, you can't hit them with a notice of violation and order, you've got to warn them again.

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CHAIR ANDERSON: Okay. So 60 days?

MR. KUSHI: Ninety days.

CHAIR ANDERSON: Ninety days?

MR. KUSHI: Well, that's my recommendation. They're on probation basically for a time period.

CHAIR ANDERSON: That means, I mean we're, I don't know why we have to give them more than one warning when we're just saying that they, they get a warning, and if --

MR. KUSHI: Well, Madam Chair, yeah.

CHAIR ANDERSON: --if they have any future violations. Say, let's just say that they have a sprinkler head that is shooting off into the street and not watering grass and causing water to run down the road. Is it not realistic to expect them to either turn that sprinkler head off or, or repair it within 30 days?

MR. KUSHI: Of course it is.

CHAIR ANDERSON: So why would we give them 90 days to do that?

MR. KUSHI: 'Cause they may violate it in 60 days. The intent being, Madam Chair, before we get to the notice of violation and order which has a procedure, different procedure, and it can be appealed to the Board of Water Supply. A warning should be issued first. That, that was my intent in the scheme of things to give them a warning first, and then if they continue to violate, hit them with a notice of violation and order. So a violation and order would not come initially. That's too great an administrative task. . . .*(change tape, start 3A)*. . . Just forget about this and serve the notice of violation and order.

CHAIR ANDERSON: Well, we haven't even got to the notice of violation and order. That's the next section. I'm talking about warn the violator that any future violation of any provision within so many days of the date of notice of violation and warning may result in the violator being served with a notice of violation and order. So you want to give them 90 days from the, from the warning to issuing a violation if they haven't corrected the violation?

MR. KUSHI: No. If, if they haven't corrected, if you give them a warning and, and you get it served and delivered on them. If they haven't corrected it, then you issue a notice immediately, notice of violation and order. In the case of a broken waterline, a faulty sprinkler, et cetera, that, that 90 days or 60 days is to put them on notice that they're on probation--I sound like a prosecutor--but they're on probation not to violate the section again.

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CHAIR ANDERSON: Okay. So would 60 days be sufficient then under Item C?

MR. KUSHI: You're asking the wrong person. But maybe the Department because the Department will be issuing these warnings.

CHAIR ANDERSON: Okay. Let's ask the Department.

MR. ANDERSON: I would, I would tend to think the longer the better. Basically, what it's trying to say if I'm, if I'm understanding it correctly is that if you violate it, then if we put down say 60 days then after 60 days you're back to --

CHAIR ANDERSON: A warning.

MR. ANDERSON: --you're back to, you're back to, you'll get another warning. So I would say bump it up more, I mean more the better.

CHAIR ANDERSON: Okay. Now I understand. Thank you for that, Mr. Anderson.

MR. KUSHI: Madam Chair?

CHAIR ANDERSON: You follow that, Members? What he's saying?

COUNCILMEMBER PONTANILLA: Yeah. I got one question.

CHAIR ANDERSON: Mr. Kushi.

MR. KUSHI: Madam Chair, is Ms. Vickers still on the line?

CHAIR ANDERSON: Yes.

MR. KUSHI: Ms. Vickers, if I may ask you, other jurisdictions do, for the enforcement do they provide for warnings first or they just hit them with the notice of violation?

MS. VICKERS: You know, it depends. I would say that most allow a warning first. But, you know, in following, you know, this discussion, I would not allow two warnings because, you know, if you did that the first warning would be, you know, if you don't comply, then your next warning is going to be a warning, you know. It's, I think you wouldn't, you wouldn't get very far, and, you know, I think you have to act quickly. I think if you're going to issue a warning or a violation you've, you've got to move it along so they get the warning or they feel the pinch of the fine, you know, pretty soon after they've violated the restriction.

CHAIR ANDERSON: Okay.

COUNCILMEMBER PONTANILLA: Question?

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CHAIR ANDERSON: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. What I'm concerned about is that for big companies or big hotels I see no problem in they getting to fix their problem right away. But when I look at residential people, they may have a problem to this issue right here. In 30 days do they have time to go hire somebody to go fix the pipe? You know, I kind of agree that 90 days would be something that most residential users can accommodate. The shorter you make 'em, yeah, the big companies, the hotels, you know, they can do it. But the regular guy is going to be hurt. Thank you.

CHAIR ANDERSON: Okay.

MS. VICKERS: Madam Chair, can I say one other thing?

CHAIR ANDERSON: Ms. Vickers.

MS. VICKERS: I think the, you know, the common type of violation you'd have for this ordinance is if someone watered on the wrong day. And so, you know, I really don't think you're looking at a lot of broken irrigation systems as being your typical violation here. Someone didn't program their controller properly or, you know, they were out there watering when they shouldn't have. So, you know, I don't think in most instances, you know, a violator would need to be, you know, going out and hiring an irrigation service company to, to fix their system.

CHAIR ANDERSON: Thank you.

COUNCILMEMBER PONTANILLA: Yeah. If they, you know, water on the wrong day, you know, it's something different. Thank you.

CHAIR ANDERSON: Yeah. And I think, you know, our, our main concern is runoff into the streets and watering on the wrong days. I mean watering everyday, and watering midday. I mean that's going to be our biggest saver I think is, is retraining people to water at night and not during the day when much of the water is wasted. So, you know, I would, I would just say 60 days, I mean I'd like to see it 30. But I think 60 days is a compromise. We put "Within 60 days of the date of the notice of violation and warning may result in the violator being served with a notice of violation and order." And as Mr. Anderson said, you know, that means if they repeat the violation within 60 days after receiving a warning, then they get a notice of violation. If they violate 61 days after the notice or the warning, then they could get a new warning and not be issued a violation. Correct? Mr. Eng, you wanted to say something?

MR. ENG: Yes. I was just, thank you, I was just talking to Tui here. You know, another way we can do this is within that paragraph 2C, you warn the violator that any future violation of any provisions of Section 14.03.030 above, to any future violation and just delete all

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the way until “may result in the violator being served with a notice of violation and order.” So we warn them, don’t specify any, any amount of time which they may repeat the offense and just then inform them we’ll serve them with a notice of violation and order.

CHAIR ANDERSON: I think that’s a good suggestion. Because I don’t know why we need to have how many days, in other words give them a warning and tell them if you do this again within the next 30, 60, 90 days you’re going to get, you know, a notice of violation. I think they should just know that if they do it again, they’re going to get a notice of violation whenever it’s repeated. And really the day, the days, the days in the second section are the ones that are critical. If the Director determines that a person served with a notice of violation and warning has subsequently violated any provision of Section 14.03.030 above within so many days of the notice of violation. “The Director may have the person served by mail with a notice of violation and order pursuant to this section.” That’s kind of convoluted too. Let’s go back to C then. I like the suggestion the Director gave us. Warn the violator that any future violation of any provision of 14.03.03 [sic] above may result in the violator being served with a notice of violation and order. Any problems with that, Members? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, I do. I, I, I prefer the considerations that was offered by, by Mr. Kushi. And I, I would look at the 30 days, the 90 days because the consequences are \$500 fine once you get the notice and/or potential removal of your meter.

CHAIR ANDERSON: Actually, I don’t, we’ve taken that out. The \$500 is in, but there’s no reference to removing their meter now. But I’ll agree with that, Mr. Mateo. I think that we’re going to have some issues with this initially because people have to be educated and we should give them a fair shot at it. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. My concern may be a little bit more basic. That is the process by which a violation will be reported. Is this going to require some kind of a written notification or just a phone call, an anonymous phone call? I’m interested in that.

CHAIR ANDERSON: The Director told us at the last meeting that they will be developing a hotline that people can call, and they’ll be anonymous.

COUNCILMEMBER BAISA: And on the basis of an anonymous call we will issue a notice of violation?

CHAIR ANDERSON: No. You have to go out, someone will be sent out to see that it’s actually happening.

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COUNCILMEMBER BAISA: But the water was running down the road when I called and the water man gets there and it's not running down the road anymore or I turned it off. How will they know?

CHAIR ANDERSON: Well, they'll probably see the, the wet --

COUNCILMEMBER BAISA: Not in Kihei.

CHAIR ANDERSON: --concrete. Well, yes, they will in Kihei 'cause I live in Maui Meadows and I see water running down the road often, and it leaves a wet spot for some time.

COUNCILMEMBER BAISA: If there's a wet, if there's a maintenance man in the area maybe, but I would wonder about that.

CHAIR ANDERSON: Well, we're just going to have to, you know, do the best we can with it and I'm hoping that there won't be any violators, that people will adhere to this policy because it's the right thing to do.

MR. ENG: Madam Chair and Member Baisa?

CHAIR ANDERSON: Mr. Eng.

MR. ENG: In response to your concern about the violator with water running down the street. Yeah. We would get a call, we would send out someone to investigate it, probably we won't see anything. But generally those types of people are habitual and they may be repeating it and we may get another call, you know. And, you know, we're not going to catch everything but I think, you know, the habitual problem water waster we can eventually catch up with. So again we're trying to change people's habit overall, and it's not going to be perfect. You know, it's going to be difficult to administer and to investigate and enforce. But we're going to do our best, and I think just with community understanding that we have a program, you know, maybe that will get people to become more aware of their water practices.

COUNCILMEMBER BAISA: I'm aware that Ms. Vickers is probably still listening in here. Ms. Vickers, can you add anything to this discussion about catching violators and how effective this has been?

MS. VICKERS: Well, I think, yes. I think the key thing is, is that, you know, when someone violates the restriction, number one, if it's the first time you give them a friendly warning. And, you know, I think proactive water districts look upon these type of first violations as a teaching moment, you know, you send an enforcement inspector out who, you know, talks to the person, maybe does an audit. It's a very positive thing. But if it happens repeatedly that's where I think, you know, you do have to start imposing fines. I think if you look, you know, at some other districts what you'll see is that repeat violators tend to be among the most affluent members of the community. That's not always the case but

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they tend to have the automatic irrigation system and are not as in touch with restrictions, either because they're not managing their properties or they don't care what the fine is. So, you know, this again is where you've got to marry the ordinance with public education and really responding quickly. But, you know, I would say that, again, I would have to allow just one warning and then have a graduated step, you know, schedule for repeat violators. And I notice in the draft ordinance, you know, that the County would have at its discretion to suspend or terminate the water supply. Now I have a feeling that will probably never happen but, you know, there are a few people out there who are really recalcitrant for some of these type of ordinances. And it's only when you get tough with them that they start to follow the rules like everybody else.

COUNCILMEMBER BAISA: Thank you.

CHAIR ANDERSON: Thank you, Ms. Baisa, Ms. Vickers. So we're not on Section B. You know, I just want to throw in that all of our enforcement is complaint driven which unfortunately that's the way it is. But maybe some day the County will have enough inspectors and whatnot to be more proactive in searching out violators. But as it is we depend on the public to notify of violations. So Section B, "Notice of violation and order. If the Director determines that a person served with a notice of violation and warning has subsequently violated any provision of Section 14.03.030 above within," do you want to put "90 days of the date of the notice of violation and order [*sic*], the Director may have the person served by mail." Why 90 days, Mr. Kushi? I mean if they've already been served with a notice, within 90 days of the date of the notice of violation the Director may have the person served by mail. So what you're saying is, okay, 90 days after they've got the warning if they persist, then he issues them a violation through the mail. Is that correct?

MR. KUSHI: Right

CHAIR ANDERSON: And you want that to be 90 days because of?

MR. KUSHI: Well, Madam Chair, I think you need to go back to the above 2C. Has the Committee decided, have you decided to knock out any reference to days or?

CHAIR ANDERSON: I think we decided, I got nods, I'm sorry, on putting in 90 days, leaving the language.

MR. KUSHI: Okay.

CHAIR ANDERSON: And, and just putting in 90 days.

MR. KUSHI: Okay. Okay.

CHAIR ANDERSON: Sorry.

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MR. KUSHI: Go back to B, drop down to B, so that would, that would be 90 days.

CHAIR ANDERSON: Okay. Members, any problem with that 90 days? Okay. So notice of violation shall state the date of the notice, the date of the notice of violation and warning, name and address of the person noticed, the nature of the violation and the specific section number violated, and the location, time, and date of the violation. The order may require the person to do any or all of the following: cease and desist from the violation, correct the violation at the persons own expense before a date specified in the order, pay a civil fine not to exceed \$500 in the manner at the place and before the date specified in the order, and pay a civil fine not to exceed \$500 per day for each day in which the violation persists in the manner and at the time and place specified in the order. That's pretty standard language. We have that already in Chapter 14 as well as 19. So any problems with any of that so far? Okay.

Going on, Item 3, "The order shall advise the person that the order shall become final thirty days after the date of its delivery unless the order is properly appealed to the board; however, any appeal to the board shall not stay any provision of the order. It is specifically intended that any appeal of the Director's decision under this section shall be heard by the board in accordance with the provisions of Chapter 14.11 of this code, and not by the Board of Variances and Appeals pursuant to Section 19.530.030(C) of this code." That language, Member, Members, was inserted to make it very clear that the appeal, because the appeal, Chapter 19 allows for appeals of Title 14, but in our discussions and specifically in some of the staff meetings it was made clear that they want the Board of Water Supply to be the body to hear the appeal, not the Planning Department or the Public Works Department. Because this is their kuleana and they know about water. So, Mr. Kushi, change the language to make it very clear that it would be the Board of Water Supply, not the Board of Variances and Appeals to hear any appeals. And the appeal must be filed within 30 days of the notice of violation, that's also standard. Any question? Comments? Ms. Baisa.

COUNCILMEMBER BAISA: Question. Could you refresh my memory? I know there's a cost to file an appeal.

MR. KUSHI: Madam Chair, Member Baisa, I believe it's \$300.

COUNCILMEMBER BAISA: So this could get pretty pricey. Thank you.

CHAIR ANDERSON: Wasting water is very pricey too. "Judicial enforcement of order. The Director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the Director need only show that the notice of violation and order was served, that a civil fine was imposed and the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid." This basically allows the County to collect the money from a court if the people don't pay it. I think that's probably a better alternative than turning off their

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water meter which is actually allowed already in the board rules. So I think this is a better way to go specific to this type of violation. Any questions, Members? Okay.

Section 3, "This ordinance shall take effect thirty days after its approval." That means 30 days after the Mayor signs it. After we pass this out it will go to two readings of the Council which will take a month and then be signed by the Mayor probably within a week of that time, if she signs it. And then it will be another 30 days before it becomes effective. So we're looking at a minimum of 60 days, is that right? Yeah. Sixty days from today that this could become effective. And in that time we will institute educational efforts to get the public informed. Mr. Mateo.

COUNCILMEMBER MATEO: Just for clarification purposes, Madam Chair. Then once it leaves Committee it will not go to the Water Board for their continued discussion?

CHAIR ANDERSON: They've already looked at it and they supported it.

COUNCILMEMBER MATEO: Okay. So it doesn't go to them for any public, additional public input?

CHAIR ANDERSON: No.

COUNCILMEMBER MATEO: Thank you.

CHAIR ANDERSON: It already went to them. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: So the only public hearing would have been with the Board of Water Supply?

CHAIR ANDERSON: We're having a public hearing today, this is our fourth public hearing on this bill.

COUNCILMEMBER PONTANILLA: Only at this meeting. It doesn't go out into the community?

CHAIR ANDERSON: No. It, this is the fourth public hearing that this Committee has had on this bill, and it did go to the Board of Water Supply and they had a hearing on it too --

COUNCILMEMBER PONTANILLA: Okay.

CHAIR ANDERSON: --already.

COUNCILMEMBER PONTANILLA: I was under the assumption that it would go out to the different communities because it, you know, it pretty much involves the total Maui County business and resident, residents. Thank you.

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CHAIR ANDERSON: The Water Availability Bill also affected all communities and we didn't send that out to various communities. This is where we do our legislative work, Members. So if you're willing to support this, I think now is the time. And I would entertain...

COUNCILMEMBER BAISA: Chair?

CHAIR ANDERSON: Ms. Baisa.

COUNCILMEMBER BAISA: Can somebody point out to us where in this voluminous binder do we have that report from the Water Board approving this? I'd like to take a look at it.

CHAIR ANDERSON: You know, Members, while Ms. Baisa is doing that I would ask the Members for their consensus to replace the section in the bill, the enforcement section in the bill with this new version that we received today and we just went over it from Mr. Kushi.

COUNCILMEMBER PONTANILLA: Madam Chair, there's something that...

CHAIR ANDERSON: Oh. Wait a minute. No, this was the fire flow bill. Actually, the Water Conservation Bill as a whole was sent to the Board last year. And many of the provisions in this bill were in the Water Conservation Bill that they looked at last year and reviewed.

COUNCILMEMBER MATEO: Madam Chair?

CHAIR ANDERSON: Mr. Mateo.

COUNCILMEMBER MATEO: Madam Chair, my two cents worth. I, I can support something like this coming out of Committee. I have, I have a problem with it not being, going back to the Board of, to the Board, to the Committee, the Board, the Water Board because as we have gotten to this point the bill that they have seen has morphed. There has been things that had been eliminated. For example, that very big issue of the removal of the water meter is no longer there. The number of days for warning is not there. A warning is a new addition to the bill. And I would really like to have the Board have the forum, the public forum in, in having that discussion before coming to the full Council so we can move something out of the Council. And that is just, that is just my own two cents worth, because I think, I think we have, we have created a substantial bill that is, is, is okay to move forward. I just want the public input because we have seen the public input today has been a total of three testimonies. So my two cents worth, Madam Chair. Thank you.

CHAIR ANDERSON: Yeah. I appreciate that, Mr. Mateo. We've had plenty of testimony on this bill as it's been developed through this Committee. Last week we had over an hour of testimony, or last meeting. But I can appreciate your concern that, I don't think it's a necessity that the Board review everything we do, they are advisory only. But if you all feel more comfortable with that, I would be happy to entertain a motion to pass this out of

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Committee with the proviso that it be sent to the Board for their review prior to second and final reading.

COUNCILMEMBER MATEO: Madam Chair, my, you know, I think, I think it would be appropriate because, you know, just in this discussion we, we, we've had, you know, it took, it took the Department a little bit to even come up with the number of days. The longer the better, that's not an, that's not a justification. We need to have specifics and I believe that, you know, we really need to take it back to the grassroots level. So, I'm all for sending it to the Board, letting them, letting them have the opportunity to have that discussion, and hopefully the community will come. I believe the testimonies we've had prior was, was specific, was self interest to a large degree. And I think now we need to have the community just come forward, because now they can actually see what it is that is going to be recommended. And that's all, that's all it is, Chairman.

CHAIR ANDERSON: I appreciate that, Mr. Mateo. Because, you know, it is the Board that's going to be hearing appeals on this, and so I think it's probably good for them to see this enforcement section, as well as all the restrictions that we're, we will be asking the public to adhere to. So, Members, with that proviso I would entertain a motion to approve "A BILL FOR AN ORDINANCE ESTABLISHING AN OUTDOOR IRRIGATION AND WATER USE SCHEDULE".

COUNCILMEMBER MATEO: Chairman, so moved.

COUNCILMEMBER PONTANILLA: Second for discussion.

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

COUNCILMEMBER MATEO: Chairman, and I go back to well what I just said a little bit ago. I think this, this provides us a good starting, a starting place, and I think the Department has helped us demonstrate the need for such an ordinance, especially when we have continuously asked for reductions and it has not been, it's been difficult to get to. And I think that it, the time has come for us as a County to address the need of our most precious resource. And unfortunately, we've come to a point where we've got to get to this recourse. But it is the reality of where we, where we are today, and the best part for me at this point is knowing that there is a one-year review period. If it's not going to work in a year's time, then by all means we need to re-address it. And I, I have difficulties with most of our ordinances being complaint-driven, because I know a large amount of the complaints will be directed right to the County, and I think it's hard, hard enough for us to, telling other people what to do when we have a hard time, you know, applying a lot of it to our own limitations as well. So with that being said I think the opportunity has come for us to give it to the general public, this is your opportunity to come to the Water Board and make your voices heard on this, this need for us to limit our water resources uses. Thank you, Madam Chair.

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CHAIR ANDERSON: Thank you, Mr. Mateo. I appreciate that. You know this Committee has spent four meetings, that's two months on this bill. And we have an even broader water conservation bill that we would like to pass. But based on how difficult it was to get this fine-tuned and get to this point, that bill is, you know, a six-month endeavor. And there are quite a few more things that we need to address before the end of this term. So I think we're doing the right thing. We're not doing something that communities who seriously take their water very seriously and its waste and conservation. So I appreciate the comments. Any other Members like to comment? Ms. Baisa.

COUNCILMEMBER BAISA: Yes, Chair. I will be supporting the motion with reservations. I am, what makes me support it is that it will be going to the Water Board for their review and there will be a chance for more public commentary.

CHAIR ANDERSON: Thank you, Ms. Baisa. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: I, too, will be supporting the bill with reservations. . . . *(change tape, start 3B)*. . . In regards to the enforcement area, you know, the enforcement that was drafted by Corporation Counsel, Mr. Kushi, that's going to replace the existing one?

CHAIR ANDERSON: Right.

COUNCILMEMBER PONTANILLA: Okay. Thank you. And, and I just --

CHAIR ANDERSON: I asked for your consensus.

COUNCILMEMBER PONTANILLA: --want to comment on the existing one. Because of the way it was written, public health and safety was a big issue for me. And I think that has been corrected. Thank you.

CHAIR ANDERSON: Thank you, Mr. Pontanilla. I did ask you all for consensus in exchanging those two sections. I'm pretty sure I did, but if I didn't I'll ask you again. Well, I know I did. Maybe, maybe you were reading something. So the, the motion is to approve the bill as it reads by the, the changes and insertions that we made today and by replacing the existing enforcement section with the enforcement section that was passed out today and that we went over. Okay?

COUNCILMEMBER MATEO: Yes.

CHAIR ANDERSON: Everybody is nodding their heads. That's, that's a consensus. Okay. Members, and we will send this out and get it back from the Board of Water Supply prior to second and final reading. All those in favor please signify by saying "aye".

COUNCIL MEMBERS: Aye.

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CHAIR ANDERSON: Opposed?

VOTE: AYES: Councilmembers Baisa, Mateo, and Pontanilla, and Chair Anderson.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Victorino.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill.

CHAIR ANDERSON: Members, we have four Members voting aye, Mateo, Baisa, and Pontanilla. Mr. Victorino is not in attendance – excused. Okay, Members, thank you very much for helping us get through this, it’s been kind of a ordeal. Thank you, Department, for your help. I really appreciate all your assistance, Mr. Anderson, Mr. Eng, and also Mr. Kushi for all your help on this. And for my Analyst Kim Willenbrink, thank you so much for all the time you’ve put in. It’s very much appreciated. So, Members, I want to thank Clarita Balala, our Secretary, who’s gotten all this paperwork to you in a timely manner so that we could make a decision today I think on a very important bill in helping to preserve the very precious water source that, that we’re charged to protect on behalf of the public. It’s a finite source and if we don’t take it seriously and prevent its waste, its wasteful use, then our children will pay the consequences. Ms. Vickers, thank you very much for your assistance and attendance today, we really appreciate it. You have any closing comments you’d like to make?

MS. VICKERS: Do I have any additional comments? I did have some additional points I wanted to add but it sounds like you’re wrapping up, so I could send these to you later on if you’d like or I can say them now.

CHAIR ANDERSON: Maybe, maybe you can send them to me by e-mail because we’re past our time and --

MS. VICKERS: Okay.

CHAIR ANDERSON: --we’ve got a meeting this afternoon. Members need to take a care of their personal needs for the next hour and a half before the meeting.

MS. VICKERS: Thank you so much. I really enjoyed being with you all today.

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CHAIR ANDERSON: Thank you very much, Ms. Vickers. Members, this meeting is now adjourned. . . .(gavel). . .

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

ACTION: DEFER – NO DISCUSSION.

ADJOURN: 12:06 p.m.

APPROVED:


MICHELLE ANDERSON, Chair
Water Resources Committee

wr:min:080915

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

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

DATED the 30th day of September, 2008, in Pukalani, Hawaii



Daniel Schoenbeck