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M I N U T E S
PUBLIC WORKS AND TRANSPORTATION COMMITTEE
Council of the County of Maui
July 8, 2002
Council Chamber

APPROVED:


Committee Chair

1 RECONVENE: 10:02 a.m.

2 PRESENT: Councilmember Michael P. Molina, Chair
3 Councilmember Dain P. Kane, Vice Chair
4 Councilmember Alan M. Arakawa, Member
5 Councilmember G. Riki Hokama, Member
6 Councilmember Charmaine Tavares, Member

7 EXCUSED: Councilmember Robert Carroll, Member

8 STAFF: Gary Saldana, Legislative Attorney
9 Jo-Ann C. Sato, Committee Secretary
10
11 Michelle Anderson, Executive Assistant to
12 Councilmember Wayne Nishiki

13 ADMIN.: David Craddick, Director, Department of Water
14 Supply
15 Edward S. Kushi, Jr., Deputy Corporation
16 Counsel, Dept. of the Corporation Counsel
17
18 Peter Rice, Chair, Board of Water Supply

19 OTHERS: George Tengan, Deputy Director, Department of
20 Water Supply

21 PRESS: AKAKU - Maui Community Television, Inc.

22

23 CHAIR MOLINA: (Gavel.) Public Works and Transportation

24 Committee meeting of July 3rd will now reconvene.

25 In attendance we have the Committee Vice-Chair Dain
Kane, Committee Members Arakawa, Hokama, and
Tavares. Excused is Committee Member Carroll. From
the Corporation Counsel's office we have Mr. Junior
Kushi. From the Council staff we have Legislative
Analyst Gary Saldana and Committee Secretary Jo-Ann
Sato.

Members, our item for today that we're

1 reconvening on is Item PWT 35(1), which relates to
2 the proposed amendments to the water system
3 development fees for the Maui County Board of Water
4 Supply. The Mayor transmitted two sets of
5 revisions. The Committee will be focusing our
6 discussions on the revisions referenced in that
7 particular item which relates to definitions,
8 penalties, payment procedures and interest fees.
9 The Board of Water Supply conducted a series of
10 public hearings between March of this year through
11 May on this matter, and two proposed resolutions
12 have been submitted for the Committee's
13 consideration. You'll find the proposed resolutions
14 in your binder referenced in PWT 35(1). And the
15 purpose of the proposed resolutions is to either
16 accept or reject the revisions.

17 From the Water Department we have the
18 Director, Mr. David Craddick, and from the Board of
19 Water Supply we have the Chairman, Mr. Peter Rice in
20 attendance. At this time the Chair will first yield
21 the mike to the Chairman of the Board of Water
22 Supply to give his comments. Mr. Rice.

23 MR. RICE: Thank you, Mr. Chairman, members of the
24 Committee. The amendments that you have before you
25 for this meeting, I wanted to point out that they

1 are predominantly changes in definitions in many
2 cases. We tried to make it a little clearer, but I
3 wanted to also point out that the -- what I would
4 call the substantive changes here are to create more
5 consumer friendly kind of rules. In particular if
6 you'll look at Section 16-8-8, paragraph D where we
7 previously had an application for water service and
8 the date was 30 days after removal due to
9 delinquency, then we have just changed that to 36
10 months. And this was 16 -- Section 16-8-9 where we
11 had one year for an extension, we've extended that
12 to two years. The refund provision, it's in that
13 same section we talked about that the interest rate
14 is added into that particular section. Section
15 16-8-10 we provided for a payment plan and this plan
16 is based on applicants where we compute the value of
17 their real estate. At one point it was 1 percent of
18 the premises real property assessment. We have
19 raised that to 2 percent. That was done to provide
20 this benefit to the lower income people, not -- if
21 we left it at 1 percent and you bought a \$600,000
22 house, you could get a payment plan. So we've
23 changed that and we've extended the payment
24 installments over three years.

25 So I think we have tried to add consumer

1 friendly types of changes to this section of the
2 rule in lieu of fact that we were asking for a large
3 increase on the rate side. Thank you.

4 CHAIR MOLINA: Thank you, Mr. Rice.

5 Mr. Craddick, would you like to add in any
6 additional comments before I ask the Committee
7 members for questions?

8 MR. CRADDICK: Okay. The definition portion there we did
9 not have a definition in there for distribution
10 system and I know that had been a source of concern
11 to people before, the difference between a
12 distribution system and a transmission line. And
13 then the impact fee, basically this definition is
14 straight out of the State statutes. And there is no
15 place in the rule where the impact fee word is used,
16 but under the definition Section 4 there -- or what
17 is -- of the amendments Item No. 4, it's actually
18 Section 16-8-2, the Water System Development Fee, if
19 you'll notice the wording in there is the same --
20 basically the same as the wording under the impact
21 fee. So this is I guess to let people understand
22 this is an impact fee under the State laws that were
23 passed since 1993 when we had the first fee passed.
24 It passed ahead of the State impact fee rules and
25 they came in I believe it was June or July of that

1 year. And so we just wanted to have something in
2 there to see the time.

3 And also it has in there the two methods that
4 you can use to calculate the fee, which is charges
5 imposed on a developer by the County to fund all or
6 a portion of the public facility capital
7 improvements costs required by the development from
8 which it is collected, or to recoup the cost of
9 existing public facility capital improvements made
10 in anticipation of the needs of the development.

11 So those are the main definition changes.
12 And source, we cleaned that up a little bit to make
13 it clear that the storage tank that is needed for
14 disinfection contact time at the source is actually
15 considered part of the source and not part of
16 systems storage. And that's why we added the
17 wording in the storage tank that the storage tank is
18 water that's used for peak hour flows, not for
19 meeting contact time for disinfection.

20 And the rest of them are, as Peter said, just
21 things to make the rules more consumer friendly.

22 CHAIR MOLINA: Okay. Thank you, Mr. Craddick.

23 Any comments from the Corporation Counsel at
24 this time?

25 MR. KUSHI: None, Mr. Chair.

1 CHAIR MOLINA: Okay. Thank you, Mr. Kushi. Committee
2 members, questions for Mr. Rice, Mr. Craddick, or
3 Corporation Counsel at this time? Seeing none, the
4 Chair will entertain a motion to adopt the proposed
5 resolution accepting the revisions to the Board of
6 Water Supply rules and the filing of the
7 communication.

8 COUNCILMEMBER ARAKAWA: So moved.

9 CHAIR MOLINA: Okay.

10 COUNCILMEMBER TAVARES: Second.

11 CHAIR MOLINA: It's been moved by Committee Member Arakawa
12 and seconded by Committee Member Tavares. Any
13 discussion on the motion? Mr. Arakawa.

14 COUNCILMEMBER ARAKAWA: Chairman, I think it was a good
15 move because of the increase in the meter fees to be
16 able to extend some of the payments and to allow the
17 public a little bit more opportunity to be flexible
18 in how they're repairing, replacing and working with
19 the Department as the costs are a little bit higher
20 now. It's unfortunate that the fee rates do have to
21 go up, but that's the real cost of doing business.
22 So I think the Department is taking a very good step
23 in trying to become much more consumer friendly in
24 some of these new rules. A lot of the other changes
25 are superficial and just need to be done, changing

1 from a capital B to a small B and some of the
2 language like board and fees, changing it vice
3 versa. So those kind of things I think this cleans
4 up the pages a lot better so it's easier to read and
5 understand.

6 Again, I would like to thank the Department
7 for coming through all that -- taking all that
8 effort going through all the public meetings and
9 coming out with something that is very useful.

10 CHAIR MOLINA: Okay. Thank you, Mr. Arakawa.

11 Committee members, any other comments or
12 questions --

13 COUNCILMEMBER HOKAMA: Chairman.

14 CHAIR MOLINA: -- with regards to the motion? Mr. Hokama.

15 COUNCILMEMBER HOKAMA: Thank you. Before voting on the
16 motion, Chairman, I know I heard Mr. Rice or Mr.
17 Craddick mention it in their comments -- this is
18 under 8 -- 16-8-8, Chairman, Subsection D, I believe
19 Mr. Rice brought it up.

20 CHAIR MOLINA: Page 8-4, members, for your information.

21 COUNCILMEMBER HOKAMA: I'm just trying to get a good
22 sense, either Mr. Rice or Mr. Craddick, for a
23 delinquency how we went from 60 days to three years
24 or 36 months. I mean, I can see you asking for 60
25 days to 180 days, but from two months to three

1 years, that's a sizeable change. Maybe you have
2 information that can help me understand why we're
3 going from one end of the spectrum way to the other
4 end.

5 CHAIR MOLINA: Mr. Craddick or Mr. Rice.

6 MR. CRADDICK: This was just in discussion prior to it
7 going to public hearing. Nobody actually testified
8 on it. I believe it was our Customer Service Section
9 that actually was under physical, it was actually
10 pushing for this change. So in their dealings with
11 the public, I believe they looked at ones that were
12 out of service and ones that tried to come back in,
13 and the vast majority of them try to get back on
14 within three years. And we felt three years was not
15 an unusual amount of time or one that would break us
16 financially if we let them come back on the system.
17 I might agree with you that it's a little bit long,
18 but that's basically the genesis of how it came to
19 the Board. It was driven from our Customer Service
20 Section.

21 MR. RICE: Mr. Hokama, I think it was also during the
22 Committee's deliberation that at times people's
23 financial woes, you know, there is not an
24 intention -- they're not intentionally trying to get
25 out of paying their bills and there are certainly

1 circumstances that -- where there's rough times for
2 people. And we're just trying to provide -- you
3 know, understand that fact and provide for it. And
4 you could probably argue for some different time
5 frame, but everyone felt that it was -- it was the
6 proper thing to do. And I -- and Mr. Kushi is
7 pointing out to me that foreclosure issue was
8 another one of the reasons for this. That's all.

9 CHAIR MOLINA: Thank you, Mr. Rice.

10 Mr. Hokama.

11 COUNCILMEMBER HOKAMA: I just wish we had something
12 statistical to back it up, Chairman.

13 CHAIR MOLINA: The Chair can make a request from the
14 Department.

15 Mr. Craddick, if we could get the statistical
16 data for getting this rationale to extend -- to go
17 from 60 days to 36 months with regard to this
18 matter.

19 Mr. Hokama, any other concerns?

20 COUNCILMEMBER HOKAMA: No. This is a rule, Chairman, and
21 I guess if it doesn't work, the Board will be
22 requesting a revision to the rule. So I am willing
23 to give it a fair opportunity to succeed,
24 although -- I don't know, just for me it's quite an
25 extreme to go the opposite way, Chairman, that's

1 all.

2 CHAIR MOLINA: Thank you, Mr. Hokama.

3 Committee members, any other questions or
4 discussion for our panelists or to the motion that's
5 on the floor? And just for clarification's sake,
6 the Chair's said the filing of the communication.
7 Being that this is an umbrella resolution, there's
8 no filing tied in with this resolution, so I just
9 wanted to make that clarification.

10 Okay. Hearing no other questions or
11 discussion --

12 COUNCILMEMBER HOKAMA: Chairman. Last one.

13 CHAIR MOLINA: I'm sorry. Mr. Hokama.

14 COUNCILMEMBER HOKAMA: Two years for the extension for
15 applicant that is not ready to receive the service
16 that he has requested to receive, and I'm pretty
17 sure I stated that correctly, that is a request by
18 applicants, Mr. Craddick, and that is why it was
19 presented to the Board and now it's before this
20 Council Committee?

21 CHAIR MOLINA: Mr. Craddick.

22 MR. CRADDICK: I'm sorry, I don't understand the question
23 there.

24 COUNCILMEMBER HOKAMA: Under 16-8-9 on the motion that's
25 before this Committee at this time the applicant not

1 ready for water service is being extended an
2 additional one year. He currently has one year plus
3 two six-month extensions that he must justify to the
4 Board for extension. This is going to go to two
5 years plus two six-month extensions, which gives him
6 an additional year to not receive the water that he
7 basically is requesting to receive and that's why
8 there's an application in. Is this driven by the
9 applicants or is this driven by the Department and
10 that is why it has been brought to the Board? I
11 mean, I'm trying to understand why we need this
12 additional extension.

13 MR. CRADDICK: Okay. What -- what this provision is for
14 is people who want to reserve water. And what it
15 says there, it's applicant not ready for water
16 service.

17 COUNCILMEMBER HOKAMA: Right.

18 MR. CRADDICK: That means for some reason of their own
19 they're not ready to take the service.

20 COUNCILMEMBER HOKAMA: Right.

21 MR. CRADDICK: We can't put the meter in. So to make
22 the -- Usually when they're doing that, their
23 financial institutions are requiring earlier and
24 earlier that they get the guarantee of water. So if
25 they do that, say, before they submit any

1 construction plans or maybe even right after they
2 get their zoning from the Council, approved zoning
3 or whatever or the project is approved, it may be a
4 long time before they can get the improvements in.
5 And we were finding that all of the ones that we had
6 to deal with or the majority of them, I don't know
7 of any that went beyond three years or would have
8 gone -- this did push. It just basically allows a
9 little bit more time and allows them to make the
10 reservation earlier without getting caught in a
11 squeeze at the end because of delays that they may
12 run into.

13 COUNCILMEMBER HOKAMA: Okay. Chairman, I'm sorry, I
14 should have asked this before the motion. My
15 apologies. Question, please.

16 So, again, I heard Mr. Arakawa's comments as
17 he believes this is going to be a move forward to
18 make it better, but how does this help the guy that
19 is ready for water, ready to get a meter, but cannot
20 get the meter because someone who has a reservation
21 and is not ready for the water still has another
22 year to get the water?

23 CHAIR MOLINA: Mr. Craddick or Mr. Rice, would you like to
24 respond.

25 MR. RICE: It doesn't help that person. But I don't think

1 we're talking about so many people in this category
2 has to make that big a difference. But what's
3 happened is we've had a number of these come to the
4 Board and --

5 COUNCILMEMBER HOKAMA: Because that's who we hear from,
6 you know, Mr. Rice, that's the guys you hear from,
7 that group of people.

8 MR. RICE: Right. And there is legitimate extensions and
9 we end up having to have a separate agenda item, you
10 know, and this provides the mechanism to deal with
11 those people. And, again, we're not really going
12 longer than three years. But to answer your direct
13 question, it doesn't help that person who's waiting
14 for a meter. And that situation occurs where we
15 have -- probably primarily Up-Country, which we're
16 dealing with at this point. But otherwise I don't
17 know that that situation occurs.

18 COUNCILMEMBER HOKAMA: Thank you for being very candid
19 about your response. I can appreciate that.

20 Okay, Chairman, thank you.

21 CHAIR MOLINA: Thank you, Mr. Hokama.

22 Mr. Arakawa.

23 COUNCILMEMBER ARAKAWA: Just my thoughts on that. People
24 have been waiting for meters for a long time and
25 many put their names on the list and to actually get

1 the projects going, you know, some of those have
2 wanted to, but then they have put it on the back
3 burner waiting for this meter to be issued. To have
4 too short a time period as soon as the meter is
5 available and they can get their meter, to put all
6 the financing and everything else together
7 immediately will be a big burden on those hundreds
8 of people that are -- you know, have been backlogged
9 for all these years. So I think it's necessary to
10 have some time for them to be able to say, okay, now
11 I can finally get my meter, now I've got to put all
12 the financing together after all these years to
13 actually get the construction going. And to have
14 the two years plus the extra two six-months up to
15 three years will allow them to be able to now come
16 back into the system and plan. Now, if the meters
17 had been available in the past where when you
18 immediately want to get a meter and you want to
19 start construction, they would have been available
20 then, then the time delay might be a little bit
21 long. But in my mind, you know, there are going to
22 be a lot of people whose planning was messed up
23 because they've been put on a waiting list for
24 literally years and years, that they're going to
25 need some time to sort a lot of this out, which is

1 why I think the time delay that's being proposed
2 makes a lot of sense at this point. Once everything
3 is sorted out whereby there is no backlog on meters,
4 Mr. Hokama's point will be much easier to work with
5 and I think then you may not want to have long
6 delays. But, again, at that point if there's enough
7 supply, then it won't matter if you have a few
8 people that are waiting. So I think the rule will
9 stand long term, but I think it's especially
10 significant at this point in time with all the
11 backlog of people. They cannot all, you know, eight
12 or nine hundred people be said, well, you've got to
13 get -- you can get your meter today and expect all
14 of them to build today or start within a 30-day
15 period, get it there. I don't think that's
16 practical. And I believe that this rule will allow
17 for that time delay for people to get adjusted to
18 where they really wanted to construct, but realize
19 the system may take them years and years and years
20 to actually get a meter. This will adjust -- allow
21 for that adjustment.

22 CHAIR MOLINA: Okay. Thank you, Mr. Arakawa.

23 Any other final questions or comments with
24 regards to the motion on the floor?

25 COUNCILMEMBER TAVARES: Mr. Chairman, maybe after we vote

1 on the resolution I had a question about your not
2 filing or filing communications or things that are
3 in the binder.

4 CHAIR MOLINA: Okay. Thank you. The Chair will try to
5 answer that question as best he can.

6 Okay. Seeing no discussion, all those in
7 favor of the proposed resolution to accept the
8 revisions to the Board of Water Supply rules say
9 aye.

10 COUNCIL MEMBERS: Aye.

11 CHAIR MOLINA: All those opposed. Okay. Thank you. The
12 Chair marks it unanimous.

13 **VOTE: AYES:** Councilmember Arakawa, Hokama, and
14 Tavares, Vice-Chair Kane and Chair
Molina.

15 **NOES:** None.

16 **ABSTAIN:** None.

17 **ABSENT:** None.

18 **EXC.:** Councilmember Carroll.

19 **MOTION CARRIED.**

20 **ACTION:** **ADOPTION of resolution approving the**
21 **amendments to Chapter 8, Water System**
22 **Development Fees.**

23 CHAIR MOLINA: Okay. Ms. Tavares.

24 COUNCILMEMBER TAVARES: Yes. You had decided not to file
25 anything that's in 31 -- I mean 35-1.

26 CHAIR MOLINA: I think we should go over that. I was told
27 because it's an umbrella resolution, there is no
28 requirement to file it. Maybe, Mr. Kushi, if you

1 could shed some light on that.

2 MR. KUSHI: I would defer to Mr. Saldana, Mr. Chair.

3 CHAIR MOLINA: Okay. Mr. Saldana.

4 MR. SALDANA: We would -- The intention is to not file the
5 original communication --

6 COUNCILMEMBER TAVARES: Right.

7 MR. SALDANA: -- so that we can maintain the umbrella
8 item.

9 COUNCILMEMBER TAVARES: Yeah. The original communication
10 is 99-62, is that --

11 MR. SALDANA: Right.

12 COUNCILMEMBER TAVARES: -- correct?

13 MR. SALDANA: Right.

14 COUNCILMEMBER TAVARES: So just about everything else
15 could be filed, right?

16 MR. SALDANA: Yes.

17 CHAIR MOLINA: So, in other words, it is --

18 MR. SALDANA: (Inaudible) binder.

19 CHAIR MOLINA: I'm sorry. So, in other words, it is
20 permissible, we can still file it then? I know
21 we -- for Item 2 we did state we did file that item,
22 too. The motion on the floor was to file.

23 You know what, the Chair is going to call for
24 a brief recess. Brief recess subject to the call of
25 the Chair. (Gavel.)

1 **RECESS: 10:24 a.m.**

2 **RECONVENE: 10:26 a.m.**

3 CHAIR MOLINA: (Gavel.) Public Works and Transportation
4 meeting for July 8th is now back in session.
5 Members, thank you for your indulgence. We -- The
6 Chair would just like to inform the body that
7 administratively we will remove communications that
8 transmitted the revisions that are in your binders
9 and what will be left in the binder will be the
10 cover letter that addressed the concerns with the
11 revisions for both items PWT Item 35(1) and PWT
12 35(2). So instead of making a formal motion for
13 that, are there any objections?

14 COUNCIL MEMBERS: No objections.

15 CHAIR MOLINA: No objections, okay.

16 COUNCILMEMBER TAVARES: Mr. Chair, point of clarification.

17 CHAIR MOLINA: Okay. Ms. Tavares.

18 COUNCILMEMBER TAVARES: What's going to remain in the
19 binder is Communication 99-62, which is the umbrella
20 communication. That everything else probably should
21 be taken out?

22 CHAIR MOLINA: That is correct.

23 COUNCILMEMBER TAVARES: Because I know that we're going to
24 be getting some more -- some more rules shortly,
25 so --

1 ?: Easy. Easy.

2 COUNCILMEMBER TAVARES: Easy rules, okay.

3 CHAIR MOLINA: We hope easy rules.

4 COUNCILMEMBER TAVARES: Okay. Good.

5 CHAIR MOLINA: Okay. Thank you, Ms. Tavares, for bringing
6 that to the Committee's attention.

7 Any other announcements or questions? Okay.

8 We do have -- several members have flights to catch
9 at 1:30 for Molokai and the rest will be leaving at
10 3 o'clock. So, members, have a safe flight and we
11 shall see you in Molokai at 6:00 p.m. This meeting
12 is adjourned. (Gavel.)

13 **ADJOURN: 10:28 a.m.**

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C E R T I F I C A T E

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF MAUI)

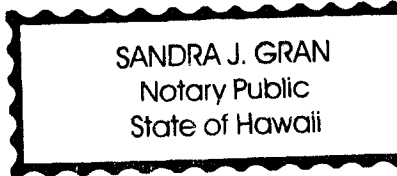
I, Sandra J. Gran, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 5th day of July, 2002, in Maui, Hawaii.



Sandra J. Gran
Hawaii CSR 424
Notary Public for Hawaii
My Commission Expires: 5/14/04



SANDRA J. GRAN
Notary Public
State of Hawaii