

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR MEETING
MINUTES OF AUGUST 15, 2013

The regular meeting of the Maui County Board of Water Supply was held at the Department of Planning Conference Room, 250 South High Street, Wailuku, Maui, on Thursday, August 15, 2013.

CALL TO ORDER

The meeting was called to order by Chair William Kamai at 9:08 a.m.

ATTENDANCE

Members present: William Kamai, Chair
Donald Gerbig
Cyrus Kodani
James Rust
Michael Suzuki

Excused: Patricia Eason
John Hoxie, Jr.
Robert Joslin
Thomas Watanabe

Staff present: Paul Meyer, Deputy Director
Pam Pogue, Water Resources and Planning Program Manager
James Giroux, Deputy Corporation Counsel
Eva Blumenstein, Planner VI
Alex Buttaro, Planner III
Mariah Gill, Planner I
Gaye Hayashida, Commission Support Clerk

Others: Michele McLean, Deputy Director, Department of Planning
Daniel Chang, State of Hawaii, Department of Health, Safe
Drinking Water Branch
Robert Whittier, State of Hawaii, Department of Health, Safe
Drinking Water Branch

ANNOUNCEMENTS

None.

APPROVAL OF MINUTES

Minutes of July 18, 2013

Chair Kamai asked for a motion to accept the minutes of July 18, 2013.

Motion: Member Gerbig moved to approve the minutes of July 18, 2013

Second: Member Kodani

Discussion: None.

Vote: Unanimous. Motion carried. The minutes of July 18, 2013 were approved.

TESTIMONY FROM THE PUBLIC

There was no public testimony.

APPEALS

There were no appeals scheduled for this meeting.

UNFINISHED BUSINESS

The chair stated that he would take the agenda items out of order and go to Item B of Unfinished Business first.

Discussion and possible action regarding Assigning Board Members to the Regulatory - Legislative Committee, Water Rates and Fees Committee, and General Infrastructure Committee.

Chair Kamai explained that at last month's meeting he and Members Gerbig and Joslin volunteered to be on the Regulatory - Legislative Committee. Member Eason is on the Water Rates and Fees Committee, and Members Suzuki and Hoxie are on the General Infrastructure Committee.

At this time the chair assigned Member Kodani to fill the vacancy on the General Infrastructure Committee, and Members Rust and Watanabe to fill the 2 vacancies on the Water Rates and Fees Committee.

Regulatory - Legislative Committee members are William Kamai, Donald Gerbig and Robert Joslin.

Water Rates and Fees Committee members are Patricia Eason, James Rust and Thomas Watanabe.

General Infrastructure Committee members are John Hoxie, Jr., Cyrus Kodani and Michael Suzuki.

Discussion and possible action regarding the Board's recommendation to the Maui County Council on the Draft Wellhead Protection Ordinance entitled "A Bill For An Ordinance Amending Title 19, Maui County Code, To Establish A Wellhead Protection Overlay District".

Member Gerbig distributed his notes with questions to the members. See attachment of Handout 1. He said that he would like to see the U.H. study or at least have someone with understanding in this area to review it and determine how reliable the computer modeling is. He also wanted to see a list of these potential wells and their location.

He wondered if this would have an affect on property values near or around the wells and if the county would be subject to lawsuits. Another concern is that this would add more permitting, another bureaucratic layer to the system.

Chair Kamai asked Deputy Director McLean what the process would be for someone who wants to build a house on a property that is in a contaminated area.

Deputy Director McLean replied that the bill as drafted would probably require someone to look at the land use designation and if the use is also identified as zones. Whether that would be the Planning Department or the Water Department she didn't know because that discussion is still going on within this administration, though she feels that this is more of an environmental protection measure than a zoning measure.

She explained that from discussions with the Water Director she understands that he wants to get feedback from the board on how serious we need be about protecting the water resource and what is fair to do to the property owner, not about who's going to do the permits and who's going to enforce this.

The deputy planning director suggested that perhaps the board could focus on categorizing the uses in these areas of absolutely allowed, absolutely prohibited, and have a middle category. The administration can then sort out which department should look at that middle category.

At this time Deputy Director McLean left for another appointment. Chair Kamai then asked Water Resources and Planning Program Manager, Pam Pogue to come forward to address the Board.

Ms. Pogue corrected Member Gerbig's handout by stating that the first grant they received was \$200,000 not \$750,000. The second \$750,000 grant is for implementing

the actual wellhead protection program of which 500,000 was going to be designated toward easements. The third \$750,000 is for source protection and \$250,000 of it has been doled out to each of 3 different watershed partnerships.

She reiterated that this is not a cleanup program, not a superfund program, or any federal program. This is a very forward looking program and it is not focused on existing uses but rather on future uses.

Of the 49 states that have wellhead protection programs, 10 of them have mandatory laws and there has never ever been a “taking“ of property.

This Board needs to look at this whole issue of how do we protect our drinking water and what is the best way to do that from an administrative standpoint that is fair to everyone.

Ms. Eva Blumenstein, Planner for the Water Resources and Planning Division, stated that some the grant money is being offered to property owners to upgrade their cesspools to septic tanks. No one is being forced to upgrade their cesspool. A portion of the grant money is being spent for public education and financial assistance to implement best management practices. They are currently working with landowners and nurseries on a voluntary basis by removing abandoned vehicles and barrels of oils and other chemicals near well sites.

The ordinance is only prohibiting new cesspools in these zones though existing ones are grandfathered in. But they are using some of the grant money to address specific cesspools that have issues or are located close to wellheads.

The state’s Source Water Assessment is the scientific basis for this program. Different land uses or activities are ranked as high risk, very high risk depending on what type of contaminants they use and the history of contamination. They have done field surveys to inventory what is in these zones.

They have had 12 public meetings on this program not just the ordinance but on developing wellhead protection strategies. There has been some trade-off as to what we are willing to protect and what can be sacrificed. This program only addresses the cesspools within the capture zones of the municipal wells.

Dan Chang with the Safe Drinking Water Branch, state Department of Health, stated that funding that is being used comes from the federal drinking water state revolving fund. Fifteen percent of the total capital fund can be spent on activities that assist water systems and for wellhead protection. The wellhead protection takes 10% of the 15% which is about \$750,000 to \$1 million per year. The current grant to the County of Maui expires at the end of 2014.

The County of Maui is the first county in the state to propose this wellhead protection ordinance it has gotten the lion's share of the \$3 million grant given out so far.

Mr. Chang explained that the concept is that each county may have different ways on how they want to protect their water sources. By providing grant funding it allows each county to develop its own plan.

Mr. Bob Whittier with the Safe Drinking Water Branch, state Department of Health, added the results of the Source Water Assessment have been sent to the different water departments. They did give a presentation to the USGS for comment but the USGS did not do a detailed peer review of the study. They also did state-wide presentation to all the water purveyors and stakeholders.

Member Gerbig asked for a list of all the agencies that did the reviews. Mr. Whittier replied that they could furnish that list.

Chair Kamai asked for a motion to go into executive session.

Mr. Giroux explained that this executive session is to discuss the Board's rights, duties and liabilities involved with the Board's decisions and actions today with the Board's attorney.

Motion: Member Gerbig moved to go into executive session

Second: Member Kodani

Discussion: None.

Vote: Unanimous. At 10:16 am the Board went into executive session.

The Board returned to open session at 10:50 am.

Chair Kamai called the August 15, 2013 Regular Meeting of the Board of Water Supply back into session.

The chair announced that the Board has decided to defer any action on this matter until the Regulatory - Legislative Committee gives its report to the full board and asked the Board for a motion to refer the matter of Draft Wellhead Protection Ordinance to the Regulatory - Legislative Committee.

Motion: Member Rust to refer the matter of the Draft Wellhead Protection Ordinance to the Regulatory - Legislative Committee

Second: Member Gerbig

Discussion: Chair Kamai stated that the scope of the Regulatory - Legislative Committee is to see what effect this legislation has on public and private properties. The members of this committee is William Kamai, Don Gerbig and Robert Joslin. They are to meet and report back to the full Board at the next meeting on September 19th at the Planning Conference Room. The Board will hear the report but will not take any action on this matter at this meeting.

Vote: Unanimous. Motion carried. The Draft Wellhead Protection Ordinance was deferred until the Regulatory - Legislative Committee reports their findings on the effects of this legislation on public and private properties.

OTHER BUSINESS

Receipt of Board Member request for agenda items to be placed on future agendas

1. Discussion on future water rates
2. Water Rates & Fees Committee's scope of duties and to engage this committee to investigate future water rates.

COMMUNICATIONS

None.

DIRECTOR'S REPORT

Deputy Director Meyer stated that regarding rates and fees the department is just starting work on the budget for next year and maybe by October they will have a recommendation. It may be a bit premature for the department to talk about their recommendations.

The department is finalizing the plans for long term capital and is close to recommending a program involving 60 different capital projects going forward and spread out over the next 20 years to keep up with maintenance and repairs, build our reliability and expand capacity.

The pumps have been ordered Hamakuapoko Wells. They are hopeful that the pumps will be installed and in the testing phase by the end of September. The wells need to be inspected and re-certified by the Department of Health. Once that is done then the wells can be put in service as back-up wells for the Upcountry system.

The department is gearing up for the expansion of the number Upcountry meters, working their way through the meter list. It is unlikely that they will be sending out large

batches of letters in September, more likely it will be October when the wells are back in service.

The Waikamoi Flume project is moving along. A little more than half of the old flume has been demolished and a temporary structure is in place for water transmission. The main screen box at the end of flume is completed and the replacement flume is being shipped and parts of that are being installed.

A number of well pumps are being replaced; one on the west side and 3 in Maui Lani are being replaced by the manufacturer. A couple of lift pumps are being repaired right now and they are starting a project to retrofit other lift pumps on the system near Kimo Drive, Kula.

Hurricane Flossie brought much needed rainfall and since that time we've had a couple of rain events. The reservoirs are back up with Piiholo being close to a 100% full. The Kahakapao reservoirs are up to 60%.

There have a few personnel moves in the Department. They lost a senior engineer to the Department of Management and then they promoted from within another engineer to that vacant position. Also a senior clerk in the permitting section has taken another position within the county. The Water Resources and Planning Division is in the final stages of looking at a reorganization of that division. There are several vacancies within that division.

Member Gerbig asked that the Upcountry Water Report also show the average mgd flow for the week as a separate line on this report.

Deputy Director Meyer said that could be done.

Member Gerbig noted that there appeals coming before the Board regarding waiver of minimum income requirements for ag water rates and wanted to be supplied with the ordinance on agricultural water rates.

Deputy Director Meyer stated that they could do this. He added that he thinks that they could have corporation counsel take the Board through the implications of ordinance as well. They have had a couple meetings on the agricultural rates issue.

DIVISION REPORT

June Division Reports

There was no further discussion on this matter.

ADJOURNMENT

There being no further business the meeting was adjourned at 11:10 a.m.

Prepared by:

Gaye Hayashida
Commission Support Clerk

Approved by:

Paul J. Meyer
Deputy Director

Handout 1

NOTES
BWS MEETING OF JULY 18, 2013
WELLHEAD PROTECTION
(WHP ORDINANCE)

A zoning ordinance – Combines Planning Commission with DWS

GRANTS STATUS TO DATE

\$750,000 – For design and implantation – All spent → S/D 200,000 PER PAM FOGUE

\$750,000 – Implementation – now being spent

\$750,000 – Source protection and easements

WELLHEAD PROTECTION

40 – 45 Maui Wellheads Total – Molokai?

Most of Maui's wells (estimated to be 70%, are above potential contamination areas

Roughly 30% of Maui's wells (estimated 10 – 15 wells) might be affected

Well areas mainly affected are Waiehu, Wailuki, Waikapu and Haiku.

New wells are planned to be installed above any potential contamination areas

WELL HEAD PROTECTION – LAWS IN PLACE

No state laws in place

No EPA laws in place – EPA has volunteer program

No Federal or State mandate to clean up wellheads

If County ordinance in place a mandate will exist

EPA has requirement for BMP for groundwater contamination

Best Management Practice (BMP) may be too late

PROPOSED ORDINANCE

Ordinance would mandate cleanup in Maui County

Ordinance would be part of Maui County zoning ordinances

Once ordinance is in place – County could mandate owner cleanup

How will owners affected be advise of this new ordinance?

Private water systems are not affected by this ordinance

Will this addition to the zoning ordinances increase the permitting process time?

Property owners may be unexpectedly hit with new costly compliance requirements

ORDINANCE REASONING

Maui has limited water sources and cannot afford to drill more wells

It would be disastrous if Maui had to shutdown a contaminated well

Well head protection is the best alternative to drilling new wells

DATA ON UH STUDY FOR WELLHEAD PROTECTION

How much soil sampling and analysis was done for the study?

Was the computer modeling proven reliable? Actual vs Models?

QUESTIONS

List of potentially contaminated well areas (Wells)

Maps of these well areas

Method of informing property owners

Grants for property owners to meet compliance