

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR MEETING
MINUTES OF MAY 21, 2015

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, May 21, 2015.

CALL TO ORDER

The meeting was called to order by Vice Chair Joslin at 9:08 a.m.

ATTENDANCE

Members present: Robert Joslin
Cyrus Kodani
Anders Lyons
Michael Suzuki
Thomas Watanabe

Staff present: Dave Taylor, Director
Paul Meyer, Deputy Director
Edward S. Kushi, Jr., First Deputy Corporation Counsel
Gaye Hayashida, Commission Support Clerk

APPROVAL OF MINUTES

Minutes of April 16, 2015

Vice Chair Joslin asked for a motion to approve the minutes of April 16, 2015 as submitted.

Motion: Member Lyons moved to approve the minutes of April 16, 2015 as submitted

Second: Member Kodani

Discussion: None

Vote: Unanimous. Motion carried. The minutes of April 16, 2015 were approved as submitted.

TESTIMONY FROM THE PUBLIC

William Jacintho gave public testimony and a copy of his written testimony is made a part of these minutes.

Bobbie Patnode gave public testimony and a copy of her written testimony is made a part of these minutes.

UNFINISHED BUSINESS

Discussion on the Department's recommendation regarding the Water System Development Fees

Director Taylor informed the Board that in the department's FY2016 budget the County Council has opted to leave the meter fee (5/8th meter) at the long-standing rate of \$6,030 for the second year and larger meters proportionally at those same system development fees. This budget item has passed out of the Council's Budget and Finance Committee and is now scheduled before the full the Council for first reading this Tuesday. It is on track to become part of the FY2016 budget.

Vice Chair Joslin suggested that perhaps the Department should look at automatic annual increases for the Water System Development Fees. This matter will be placed on an upcoming agenda.

OTHER BUSINESS

Discussion on the qualifications of the Department's personnel to evaluate an applicant's property for agricultural activities

Currently, the department sends someone to do inspections who has some knowledge of agriculture, perhaps as a youth who worked on a farm. Rarely is it someone who is thoroughly conversed in farming techniques for a range of crops and the economics of farming. It is usually a pipefitter or a mechanic or somebody like that, whoever may be available out of the Upcountry operations.

Mr. Kushi noted that during appeals on ag water rates, the questions asked are when was the inspection made, who inspected it, what is in the inspector's report. And some appellants even question the qualifications of the department's inspector.

Vice Chair Joslin asked the department to get a written minimum standard of what an inspector is.

Deputy Director Meyer agreed and said that the department supports the idea of a qualified agriculture inspector shared by other departments, someone who could do inspections for the Water Department, Real Property Tax, and Planning Department.

Director Taylor stated that one concern is that if the ordinance is vague then regardless of the qualifications of the inspector we will still get appeals. So the other issue is the criteria for agriculture, what does the inspector look for.

The deputy added that there are 8 criteria and evidence of income. Some of the examples are copies of GET form and IRS form (Schedule) F, a complete description of the commercial agricultural operation, and a map showing the areas of cultivation. You have to have a commercial agricultural operation that involves growth and sale of livestock, or growth and sale of crops from that agricultural activity.

The director suggested that the Board could include very specific things that are existing in a commercial agricultural operation such as "there shall be valid evidence of" and include the list the deputy mentioned. This would put some objectivity to the inspection.

Discussion on the Procedures for Minimum Standards of Agriculture Water Rates

The department's primary concern is that the rules are clear enough so that what one staff member decides is the same as another staff member, under similar circumstances. The department has no strong ideology on what is right or wrong, that should be left to the policy-makers, but there should be clarity in the rules.

Deputy Director Meyer stated that the existing ordinance is clear about the requirements whether it is a new application or a renewal of ag water rates. He added that there are 6 or 7 staff members who review those applications and he will personally review all of the applications that will be rejected because he doesn't want to burden the Board with appeals.

Copies of the Proposed Bill for an Ordinance Amending Section 14.10.010, Maui County Code, Relating to Water Rates For Agricultural Consumers were distributed to the Board and department staff for discussion.

Mr. Kushi asked that the board not take any action on this matter at this meeting since it was not specifically set forth on the agenda. If the board wishes to take action it should be duly noted on the next meeting agenda. He explained that the Board can make a recommendation to the department that this proposed ordinance be forwarded to the council via the mayor. He also suggested that another route could be to have one of the council members introduce this proposed bill.

Member Suzuki asked that instead of using a percentage of the ag water rate, can we use instead a dollar figure, that way the public would understand it better.

Deputy Director Meyer explained that there are 2 pieces of legislation you would have to change. One is the ordinance itself, MCC 14.10.010 and the second is the annual budget rates which sets forth the ag water rates. This current proposed ordinance is an efficient way without having to change MCC 14.10.010 every time the rates change.

The director added that any type of actual cost has to be in the annual budget. So we really can't put a dollar value in another ordinance. If you want it to stick forever, it has to be some sort of multiplier to whatever is in the annual budget.

Mr. Kushi stated that at the next meeting we can come up with examples that Member Suzuki was asking for.

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

1. Discussion and possible action for automatic annual increases for the Water System Development Fees. The Board will invite Budget Director Sandy Baz to be present.
2. Discussion and possible action regarding the Proposed Bill for an Ordinance Amending Section 14.10.010, Maui County Code, Relating to Water Rates For Agricultural Consumers; the department will submit examples for the public to see.
3. Discussion and possible action on a draft of the procedures and qualifications for an agriculture inspector.

DIVISION REPORTS

Operational Division Reports

Deputy Director Meyer reported that:

1. Since the last meeting the department has been consumed with the budget. The budget meetings have been going late into the night and on weekends resulting in the substantial modification of the department's budget in terms of water system development fees. This will have an impact on long term cash flow and the ability to sustain capital expenditures.
2. Though the budget was cut, the department was able to get the council to restore \$15 million dollars for the expansion of the Iao Treatment Plant.
3. Cut from the budget was \$1 million for the design and installation of a new customer information and billing system. Council also cut the amount the department pays to the Honolulu Board of Water Supply (Honolulu BWS) for the current billing system by \$125,000 from \$395,000 even though the inter-governmental agreement was approved.
4. Projects are moving along with Hamakuapoko wells very close to 100% approved.
5. The GAC project at Piiholo is finished and the final report of the water quality tests is expected soon.
6. The Mahinahina well project will be closed out and the department will move on to a separate site because that well did not work out satisfactorily.

7. Upcountry projects like the re-tubing of the filters at Olinda, Kamole and the re-lining of the Waikamoi reservoirs are complete. The Waikamoi Flume is done and fully in service at this time.
8. The treatment plants are in better conditions now than they have ever been.

Member Kodani asked if the council has only approved \$175,000 for the intergovernmental contract with Honolulu, where will the rest of the money come from?

The deputy director explained that they will have to submit a budget amendment and ask for the money on a supplemental basis which should be enough to cover 5 to 6 months.

Member Kodani then asked what will happen when Honolulu BWS ends our contract. Where will we be then?

In the interim, the Honolulu BWS has provided the department with a 10-year contract. It started this year at \$395,000 and will escalate to well over a million dollars a year over time, averaging \$660,000 a year. This is a very substantial incentive for Maui to leave them. Besides, the system that Honolulu provides to the department doesn't meet the department's needs.

Member Lyons suggested that perhaps the Board could convey a message to the council about this matter.

Because the first reading before the Council is the Tuesday after this meeting, the Board felt that they needed to send a letter to the Council to reinstate the \$1 million for the design and installation of a new billing system.

Motion: Member Lyons moved to authorize Vice Chair Joslin to review and sign a letter supporting the department's recommendation in restoring the budget amount for creating the department's own billing system.

Second: Member Kodani

Discussion: No further discussion on this matter.

Vote: Unanimous. Motion carried. The department staff will draft a letter that Vice Chair Joslin will review and sign supporting the department's recommendation in restoring the budget amount for creating the department's own billing system.

Staff will draft a letter addressing this issue by tomorrow for the vice chair's review and signature. Vice Chair Joslin will then deliver the Board's letter with appropriate copies to the Council at their May 26th meeting when he gives public testimony on this matter.

ADJOURNMENT

There being no further business the regular meeting was adjourned at 10:25 a.m.

Prepared by:

Gaye Hayashida
Commission Support Clerk

Approved for distribution:

Paul Meyer
Deputy Director

WRITTEN TESTIMONY

Testimony to Board of Water Supply
May 21, 2015 meeting concerning Ag Water Rate Requirement and Inspectors.

William G. Jacintho
PO Box 473
Kula, Maui, Hi. 96790
(808) 878-2660

May 21, 2015

Good morning Board members,

My name is William Jacintho. I am a life long resident of Kula, and a fourth generation rancher and farmer, with another Ag related day job, while my wife works the farm full time. I am also the President of the Maui Cattlemen's Association, as well as a member of other Agriculture related organizations.

I have had the opportunity to discuss my concern with Council member Victorino on several occasions, and he has been very understanding of the livestock concerns. I am hear today to represent the many people who are unable to be here to testify about the issue, and I must say, we farmers on the bottom, need representation. These are the beginning farmer/rancher, the family farmer, yes, the one that is trying, and the one that's trying to pass it on. A farmer is a farmer, whether full time or part time, they're still producing with good intentions. The cheats are cheats, and to often small farmers automatically get thrown in that category. A very unfortunate position to be in, if what you grow is all that the market will take, or limited space to grow crops or livestock.

According to the USDA Hawaii Agriculture Statistics, Maui has 165 registered farmers that make between \$2,500 and \$5,000, and 478 registered farmers that make less than \$2,500. I do believe these are legitimate farmers and ranchers. If there needs to be a dollar figure, then \$1,000 is what the USDA uses to define a farm, and most farmers are used to accepting that number. No matter what number is selected, the cheats will figure it out, and it's not fair to the small farmers to put a number that's difficult to achieve. Filing some kind of tax form is proof of farm activity, and the IRS will tell you if you're business is just a hobby.

We are really having a problem with the dollar amount required for the proposed County Ag Water Rate Requirement. Those who do not make the requirement will not be able to receive Ag benefits. This is a cost that is four times the amount, and is very hard to absorb when you are trying your best not to waste, and to turn a profit, as well as compete with the much larger growers who get the bigger volume discounts.

Regarding water rates, if someone wants to call his 6 papaya trees ag, then go for it, but remember, 6 papaya trees only require Xgals of water. A capable/trained/educated Inspector can easily determine that with the data available (through agencies such as CTAHR, other Universities, and farm service agencies) and they should/shall only be allowed to claim that much in ag water. A little bit of initial work for the inspectors, but I

WRITTEN TESTIMONY

bet the load won't last, because word will get out, and most of the cheats will go away.....

In my opinion, through previous observations, the two meter proposal will not work, because the 6 papaya tree lawn guy will hook up the rest of the lawn to the system with the ag water rate meter further down the pipeline. To think that's not going to happen is wishful thinking. You'll never be able to see where buried pipes are connected. We're dealing with cheats.....

If we are to focus ag water on ag related things, then someone has to physically see that happening. They do this on the mainland, and it works.

Thank you for your time,
William G. Jacintho

WRITTEN TESTIMONY

Agriculture Working Group Testimony for Maui County Board of Water Supply May 21, 2015

Aloha! My name is Bobbie Patnode, and I am here today representing the views of the Agriculture Working Group. The Ag Working Group is a group of about 15 farmers and ranchers which was formed about two years ago to help provide input from the agriculture community to the Council. We have representatives from the Farm Bureau, the Farmers Union, Maui County, Maui Coffee Growers, Maui Cattlemen's Association, and several community associations, with one requirement – that you are personally engaged in agriculture.

The Ag Working Group was made aware of your agenda item relating to the qualifications for water department inspectors for ag water rates only late last week, and so we have not been able to discuss your specific item at one of our meetings. I can tell you that the topic of ag inspector qualifications has been discussed for the last two years at about probably two thirds of our meetings. The AWG is very much in favor of requiring that ag inspectors possess the agricultural qualifications for the job.

The highest priority for the AWG has been to move the county to a single definition of agriculture used by all departments and a single process for farmers to apply for permits and the agricultural rates Maui County has legislated. Right now, a farmer has to apply with a farm plan and be inspected by three different departments – Water, Real Property Tax and Planning. The County ends up sending out three inspectors to the same property. And unfortunately, by their own admission, none of the departments have inspectors that are ag knowledgeable. The AWG can tell stories for hours of inspectors who had no idea what they were looking at.

As farmers and ranchers, the AWG is very concerned with water and ensuring water is available. We are always told about the cheaters – those who fake \$1000 in sales to get the rate, and then water two acres of landscaping. Believe me; we hate the idea of the guy with four papaya trees using our precious water on a two acre lawn, and not paying the correct rate. We are also very concerned that the beginning farmers or small operations, who we know have thin margins, not get squeezed out by higher rates. The answer is for farms to be inspected by someone who knows what they're looking at.

We have had meetings with the Mayor and department directors to recommend that the County hire qualified agricultural inspectors. I think they are in favor of this, and it remains to be figured out where these inspectors fit in the administration. Water, RPT and Planning could all use the inspectors. Ideally, we'd like to see farmers able to submit one farm plan to the county and have it shared by all departments.

For myself, I think there are two levels of inspection that Water needs. First, is the consumer farming? Our current law is clear and only asks that the consumer produce \$1000. That should be pretty easy to determine, with the Schedule F and a site visit by a qualified inspector. Second, is the water being used for the farm? An inspector would be able to see if the irrigation lines are going to landscaping or a lawn. Currently, we have nothing in the law that says ag water cannot be used domestically once you've satisfied the criteria to get the ag rate. I think this is a gap in the law that needs to be closed, and then an inspector can visit and verify the water is being used for ag.

I believe the best way to assure that ag water is used for agriculture is a separate meter, with inspection by a qualified ag inspector.

Thank you for the opportunity to share this information with you.