

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR MEETING
MINUTES OF JUNE 18, 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, June 18, 2015.

CALL TO ORDER

The meeting was called to order by Chair Kamai at 9:05 a.m.

ATTENDANCE

Members present: William Kamai
R. Raymond Cabebe
Sylvia Ho
Cyrus Kodani
Anders Lyons
Loren Tilley

Staff present: Dave Taylor, Director
Paul Meyer, Deputy Director
Eva Blumenstein, Water Resources & Planning Program
Manager
Edward S. Kushi, Jr., First Deputy Corporation Counsel
Gaye Hayashida, Commission Support Clerk

At this time, Chair Kamai introduced Loren Tilley as the board's newest member and asked Mr. Tilley to give a brief introduction of himself.

Member Tilley stated that he is currently an attorney with the law firm Merchant and Horovitz. He has been a Maui County and a Honolulu City and County prosecutor, and graduated from UH law school in 2009. Mr. Tilley is originally from Wisconsin.

APPROVAL OF MINUTES

Minutes of May 21, 2015

Chair Kamai asked for a motion to approve the minutes of May 21, 2015 as submitted.

Motion: Member Lyons moved to approve the minutes of May 21, 2015 as submitted

Second: Member Kodani

Discussion: None

Vote: Unanimous. Motion carried. The minutes of May 21, 2015 were approved as submitted.

TESTIMONY FROM THE PUBLIC

There were no public testifiers.

OTHER BUSINESS

Discussion and possible action regarding Automatic Annual Increase of the Water System Development Fees

Budget Director Sandy Baz appeared before the board to answer any questions on the Water System Development Fees. He told the board that there is no such thing as “automatic annual increases” but if the board has ideas they could discuss them now.

Member Lyons stated that though the Department has presented a well thought out plan for system development, the Council seems to be pushing back. The question is, how do we create the political environment where that plan can move forward? Or, how do we get to a different funding plan that meets the water needs of this island?

Director Baz said that he believes the director has done an excellent job of presenting strategies for system development to the mayor and the County Council where we can maintain the current system, do maintenance and slight upgrades, or we could fill what the general plan is looking at for the next 20 years. And the director and the mayor presented a budget to the Council to increase these fees to help offset the cost of the system development.

The County Council has the ultimate decision-making authority on what the rates and fees are. Those are set forth by the charter and the annual budget and it is very clear that it is only for a year which is why we can't have automatic increases.

Director Baz suggested that the board could work on an educational campaign to help the Council better understand what the Department is doing. The more voices the Council hears from the better. Other suggestions include issuing letters to the Council or have board members meet with Council members on a regular basis to help them understand these issues, and testify at Council meeting. The Council has to hear from concerned people to be able to respond.

Power Point Presentation by the Department on the Wellhead Protection Overlay District (WPOD) with discussion and possible action to follow

Director Taylor gave a brief background on this matter. He explained that a little over a year ago the Board saw a presentation on the Proposed Wellhead Protection ordinance. After seeing the presentation this Board then sent a letter to the Department stating that they did not support this program. So it is being brought back to the Board again

because the Department may not have done a good job explaining this program which may have lead to the Board's non-positive reaction. We are the only state in the nation that isn't currently doing this. This is being opened up again in the hopes that they can get the Board's support.

At this time, Ms. Eva Blumenstein, Water Resources and Program Manager, gave a power point presentation on the Wellhead Protection Overlay District. A copy of the presentation is attached and made a part of these minutes.

Discussion and possible action regarding the Board's Proposed "A Bill for an Ordinance Amending Section 14.10.010, Maui County Code, Relating to the Water Rates for Agricultural Consumers"

A copy of the draft ordinance is attached and made a part of these minutes.

At this time, Mr. Kushi explained this draft ordinance to Director Baz as setting the qualifications for annual income and not setting the rates.

Motion: Member Lyons moved to approve the Board's proposed "A Bill for an Ordinance Amending Section 14.10.010, Maui County Code, Relating to the Water Rates for Agricultural Consumers".

Second: Member Cabebe

Discussion: None

Vote: Aye - 5, Nay - 1. Motion carried. The Board recommended approval of Proposed Ordinance Amending Section 14.10.010 to the Department to send to Council. Staff will draft a letter to the director to forward this proposed ordinance to the County Council.

Discussion and possible action on a Draft of the Procedures and Qualifications for an Agriculture Inspector

A copy of a draft of the proposed inspector's qualifications is attached and made a part of these minutes.

Regarding the section requiring a bachelor's degree from an accredited college or university in diversified agriculture or tropical agriculture or equivalent, Member Cabebe asked for more detail and clarification on what is meant by "equivalent".

Member Ho asked if the inspectors have a checklist when they go out for inspection.

Deputy Director Meyer replied that they do have a form that they fill out. They take pictures, do a plot of the property, list crops, and source of water. To be an expert knowledgeable in all the different types of agricultures you really need formal training. The Department did seek out ag inspector qualifications from other jurisdictions, namely California.

Director Taylor said that the Department doesn't have the need for 40 hours a week inspector. It has been suggested that there could be one position somewhere in the county, maybe in the Real Property Tax Division, where that person would do the core inspection and the other departments will use that assessment for their own determination

Currently, inspectors within the county or the state tend to be "professional" in their experience but tend not to have degrees. There may also be a problem with the Department of Personnel Services where "inspector" and "degree" do not match. It may be difficult to fill if it is at a lower pay grade and it requires a degree. No one with a degree will want that job. The Department can do nothing other than pass this on to the Ag Working Group (AWG) about what the Board thinks. It is very unlikely that the Department of Water Supply will move forward with hiring an ag inspector.

Member Kodani asked if the other counties have ag inspectors. Both Director Taylor and Deputy Director Meyer said they did not know. The Department will check with the other counties and report back to the Board at the next meeting. And staff will also contact the AWG to have a representative answer questions at the next meeting.

Member Lyons recalled that at the last meeting the Board wanted a "framing document" so that the inspectors would have some guidance on what they were looking at; some sort of standardization in qualifications for doing the field inspections. He would support a countywide inspector. This document doesn't rise to that level.

Director Taylor suggested that the Board could set up some minimum requirement checklist and recommend that the Department's inspectors use it. This would be very useful when appeals come before the Board.

Report by Vice Chair Joslin on his public testimony before the Maui County Council's May 26, 2015 meeting regarding the Budget and Finance Committee Chairperson Report Dated May 4, 2015; Budget Revision Lines 1200 and 1236

Chair Kamai informed the Board that a copy of Vice Chair Joslin's public testimony is in the Board members' packets and there was no need to take action on this matter.

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

1. Discussion and possible action in assigning the matter of the Board's minimum standards for agriculture inspections to a committee
2. Discussion with a representative from the Agriculture Working Group (AWG) regarding the qualifications for ag inspector. The Department will contact the AWG.
3. Discussion and possible action in the formation of a permitted interactive group to interact with the County Council and the Council's Water Resources

Committee on water issues. The Board will invite Council Member Gladys Baisa to attend.

4. Discussion regarding the Wellhead Protection Overlay District ordinance. The Board members will compile their questions at this meeting for the department staff to address at the August meeting.

DIVISION REPORTS

Operational Division Reports

Director Taylor reported that despite Vice Chair Joslin's public testimony before the Maui County Council asking for the restoration of \$1 million deleted from the Department's Administrative Program for a new customer information and billing system, the council passed the budget without adding the funds back in. He also reported that it is business as usual regarding the department's operations and maintenance and there is nothing further to report.

ADJOURNMENT

There being no further business the regular meeting was adjourned at 10:45 a.m.

Prepared by:

Gaye Hayashida
Commission Support Clerk

Approved for distribution:

David Taylor
Director

POWER POINT PRESENTATION

Wellhead Protection Through Zoning in Maui County

Board of Water Supply
June 18, 2015

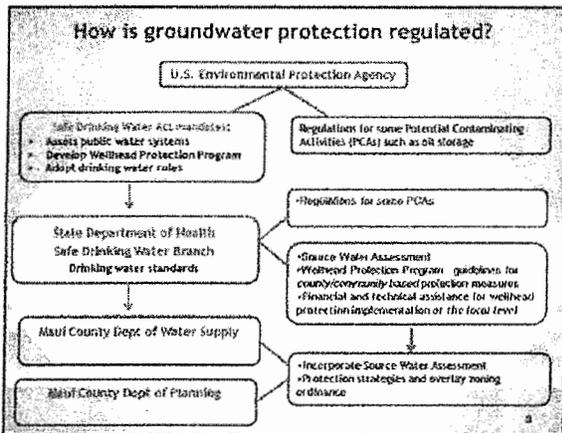
Why Wellhead Protection?

Common sources of contamination: leak & spills from chemical storage, industrial processes, pesticide applications

Contamination:
Treatment
Monitoring
Alternate water supplies
Remediation
Litigation

Prevention:
Simpler
Less expensive
More reliable over long term

Maui Island Plan:
"Complete and implement DWS wellhead protection program to protect the water quality of public and private wells"



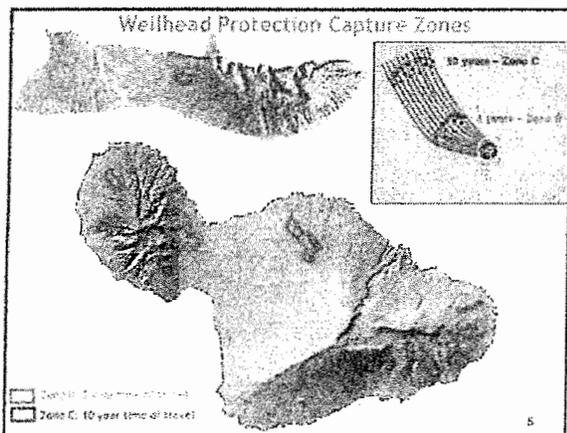
Regulations of PCAs

Groundwater specific
Identify gaps

"Current laws and regulations such as those dealing with agricultural use, hazardous waste disposal, and fuels transfer and storage are very broad and complex and in many cases do not provide the detailed level of regulation necessary to ensure groundwater protection"

-Retail Director of Health

Activity	Regulation	Groundwater Protection
Oil storage	Regulation	Groundwater Protection
...

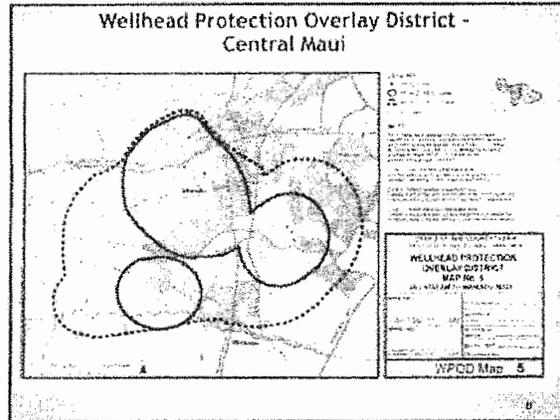
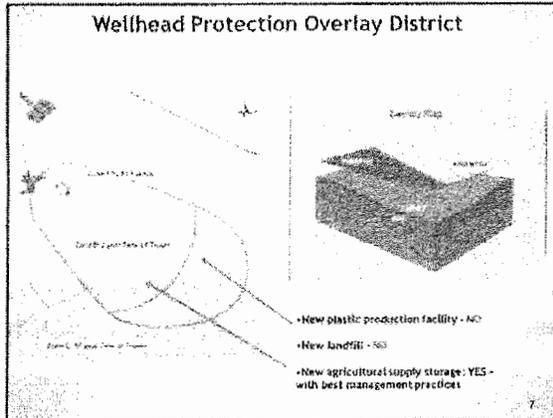


Wellhead Protection Overlay District

- ✓ Supplement, not duplicate regulations in place
- ✓ Zoning - prohibit NEW high risk uses
- ✓ Administrative permit with best management practices
- ✓ Existing uses grandfathered in

PROHIBITED NEW HIGH RISK USES:

- Cesspools
- Commercial electrical/electronic manufacturing facilities
- Commercial chemical processing/storage facilities
- Mortuaries/graveyards
- Golf courses
- Commercial metal plating/finishing/fabricating facilities
- Plastics/synthetic production facilities
- Commercial junk/scrap/salvage yards
- Mines
- Landfills
- Injection wells on non residential properties
- Irrigation with R2/R3 reclaimed water
- Sewage sludge land applications
- Commercial slaughterhouses
- Wastewater percolation ponds



BWS Regulatory - Legislative Committee Concerns

1. There does not appear to be any justifiable need/no historical examples showing failures of current county, state and federal regulations/additional groundwater regulations redundant unless clearly demonstrated failure scenarios
2. Source Water Assessment/Definition not acceptable level/single peer review
3. "This ordinance would furiously instigate newly prohibited uses not understood by the public-at-large. Such a vastly imperious ordinance will affect most, if not all, property uses and their related property values..."

1. "Current state and federal regulations do not have the specificity to ensure safe drinking water. More groundwater specific protection is needed to address gaps" - State Director of Health
Failure scenarios:
- Kula, Superfund site (10% of \$M)
- Red Hill
- Sand Island
2. USGS modeling codes, among the most widely reviewed codes available to simulate groundwater flow and define well capture zones, designed for wellhead protection purposes. EPA contracted peer review
3. - 12 public meetings
- Legal review
- Overlay zoning to protect groundwater a well accepted method

What about new wells?

THIS BILL DOES NOT CHANGE SELECTION OF NEW WELL SITES

Well siting policy:

- Source water assessment preceding site selection
- Preference to sites of low vulnerability from current and historic PCAs
- Protection at the earliest time possible

Best Management Practices

Preventive measures provide more cost-effective solutions for maintaining water quality than implementing treatment or finding an alternative source for reliable and safe drinking water.

Store potentially contaminating substances on an impervious surface with a secondary containment

Incidents for Business Owners:

- Reduce potential spill clean up costs
- Reduce environmental liability
- Increase employee safety

Comprehensive Source Protection Strategy

Wellhead Protection Zoning: Restrict new high risk uses in wellhead protection areas

Best Management Practices:
• Structural or operational
• Public education

Well siting:
• Source water assessment preceding site selection
• Preference to sites of low vulnerability

Cost to clean up groundwater exceeds prevention cost at a 3:1 ratio

www.mauewater.org

BOARD'S PROPOSED BILL AMENDING SECTION 14.10.010, MCC, RELATING TO
THE WATER RATES FOR AGRICULTURAL CONSUMERS

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING
SECTION 14.10.010, MAUI COUNTY CODE, RELATING
TO WATER RATES FOR AGRICULTURAL CONSUMERS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 14.10.010, Maui County Code, is amended by
amending subsection A to read as follows:

"A. Water rates for agricultural, nonpotable agricultural, and general consumers shall be set forth in the annual budget. For water rates for agricultural consumers, rates shall be tiered according to the agricultural consumer's gross annual revenue from sales of agricultural products for the period preceding the date of the application for agricultural water rates as follows:

<u>Gross annual revenue from sales of agricultural products (as stated in MCC section 14.01.040)</u>	<u>Water rates for agricultural consumers for consumption over 15,000 gallons per month</u>
<u>\$1,000 to \$5,000</u>	<u>300 percent of the agricultural water rate as stated in the budget</u>
<u>\$5,001 to \$12,000</u>	<u>200 percent of the agricultural water rate as stated in the budget</u>
<u>\$12,001 and over</u>	<u>The agricultural water rate as stated in the budget"</u>

SECTION 2. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:

JENNIFER M.P.E. OANA
Department of the Corporation
Counsel
County of Maui
2015-4293

FOR DISCUSSION PURPOSES ONLY

POSSIBLE QUALIFICATIONS FOR AGRICULTURE INSPECTOR

Bachelors (or higher level) degree from accredited college or university in diversified agriculture or tropical agriculture or equivalent;

Minimum five years full-time work experience in responsible position in commercial agriculture or ranching business with minimum annual revenue of \$25,000 or equivalent;
and

Demonstrated working knowledge of commercial farming of diversified crops and ranching, including product distribution and marketing channels.