

WATER RESOURCES COMMITTEE

Council of the County of Maui

MINUTES

October 19, 2016

Council Chamber, 8th Floor

CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Gladys C. Baisa, Chair
Councilmember Robert Carroll
Councilmember Elle Cochran
Councilmember Don Couch
Councilmember Stacy Crivello
Councilmember Mike White

EXCUSED: VOTING MEMBERS:
Councilmember Michael P. Victorino, Vice-Chair

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

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: David Taylor, Director, Department of Water Supply
Jase Miyabuchi, Civil Engineer, Department of Water Supply
Edward S. Kushi, Jr., First Deputy Corporation Counsel,
Department of the Corporation Counsel
Jennifer M.P.E. Oana, Deputy Corporation Counsel, Department
of the Corporation Counsel

OTHERS: David DeLeon, Government Affairs, REALTORS® Association of
Maui
Rosemary Robbins
(1) additional attendee

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

ITEM-20: WATER SERVICES (CC 16-40)

CHAIR BAISA: . . .*(gavel)*. . . Will the regular meeting of the Water Resources Committee please come to order. It is Wednesday, October 19, and it's a little after 9:00 in the

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

morning. I'd like to welcome everybody. I am Gladys Baisa, the Chair of this Committee and I'll be introducing the Members in just a moment. But before we start, I'd like to ask everyone if you would please check to make sure that your cell phones are on silent mode so that we don't have any excitement here. I'll check my own. Thank you very much and I'll introduce the Members. This morning we have with us, Mr. Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR BAISA: Good morning. We have Chair White.

COUNCILMEMBER WHITE: Good morning.

CHAIR BAISA: Good morning. We have Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha. Good morning, Chair.

CHAIR BAISA: Good morning. Don Couch.

COUNCILMEMBER COUCH: Aloha. Good morning, Chair.

CHAIR BAISA: And Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR BAISA: Thank you and welcome to all of you. And our Vice-Chair of the Committee, Mr. Victorino, is excused today. Okay. From the Administration we have with us, Dave Taylor, the Director of Water Supply.

MR. TAYLOR: Good morning, Chair.

CHAIR BAISA: Good morning. And we have Jen Oana, our Deputy Corporation Counsel.

MS. OANA: Good morning, Chair.

CHAIR BAISA: We have our wonderful Staff. We have Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR BAISA: And we have Clarita Balala, our Committee Secretary. Thank you, ladies. In our District Offices, I'm gonna check in and make sure everybody's there. We have Dawn Lono in Hana.

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office.

CHAIR BAISA: Good morning, Dawn. And in Molokai we have Ella Alcon.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai.

CHAIR BAISA: Hi, Ella. And it was my understanding from a meeting yesterday that Lanai Office is closed?

MS. WILLENBRINK: They're back in, Chair.

CHAIR BAISA: They're back. Okay. Denise, are you in the Lanai Office?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai.

CHAIR BAISA: Well, thank you very much and welcome back. Okay. So we'd also like to introduce Ed Kushi, our Deputy Corporation Counsel who's here with us also. Good morning, Ed. And we also have joining us, Jase, our favorite engineer from Water who's gonna be helping us with this bill today. We're...I'd like to, Members, we only have one item on our agenda today, but it's very important and it'll take some work. I would like to begin by taking public testimony if there's any. Ms. Willenbrink?

MS. WILLENBRINK: Thank you, Chair. We have one person signed up to testify. That is Dave DeLeon.

CHAIR BAISA: Mr. DeLeon?

. . .BEGIN PUBLIC TESTIMONY. . .

MR. DeLEON: Good morning and aloha. And thank you for bringing this item back to the Committee. I appreciate the opportunity to speak on it.

CHAIR BAISA: Good morning.

MR. DeLEON: Please let me initiate this testimony by admitting that I am not a plumber and have professed no real knowledge of the mechanics of this issue. When the Water Director says this is a health and safety concern, I believe him. However, having worked in the area of unintended consequences that arise at a well-intentioned government actions for decades, the REALTORS® Association of Maui wishes to state its concerns with the proposal as it stands and this is just an amendment that would mitigate those concerns. The way we understand this proposal, whenever a property owner seeks a building permit for any purpose, whether it has to do with water related issues or not, they would also be required to install a backflow protection system to the water system on their property. This could add as much as \$500 to the cost of a single-family home property being with the building permit request, as well as the added problems of finding and hiring a licensed plumber contractor and obtaining a separate building permit, a plumbing permit, and a subsequent plumbing inspection. What is not clear to a non-plumber layman, like myself, is whether this new addition to the residential water system will have to be inspected regularly to ensure its

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

functioning properly. If it does, that would add another whole layer of hassle for the homeowner. We believe that this added requirement will be a serious disincentive to the average residential property owner to seek required building permits. We have already...we already have a problem with homeowners sidestepping the building permit process. Let's just say that our building or our permit process is not well known for its efficiency. For many property owners, there's already a philosophy that less involvement with the County, the better. RAM believes that this issue will...RAM believes that the issue being addressed really has more to do with commercial property owned or operated properties or multi-family properties than private single-family residences. So we'd like to propose a simple compromise. Please consider exempting single-family residences from this proposed amendment...from this requirement. Commercially operated properties have the capacity to deal with this requirement and are more likely to be the cause of the issues that the proposal's addressing. With that compromise, we'd be able to support this proposal. Mahalo.

CHAIR BAISA: Thank you, Mr. DeLeon. Members, any need for clarification? Seeing none, thank you.

MR. DeLEON: Mahalo.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair, our next person signed up to testify is Rosemary Robbins.

CHAIR BAISA: Good morning.

MS. ROBBINS: Good morning, everybody. I am not a plumber either, but I must say that I recognize tap water when it's flowing and where is it when it's not. Years ago, testimony was giving at this microphone of a person within our community whose water pipe was cut. We're talking about no water available to a house at 10:30 at night after the news. Scary. I called the Water Department and the answer was...apparently I woke somebody up, sorry to have to do that, but anyway, could they come in the morning which would have left me with no water protection between 10:30 at night and whenever they might be coming the following day. Not acceptable. So I told the gentleman on the phone that I really felt as though somebody ought to come up and was I reaching the emergency number in the phone book, yes. So they sent somebody up, a young man. I had already gone down and checked. The lawn was dry so it's not like there was water all over the place or any of neighbors walking the dog would've called up and said you've got a problem here. So the person got out of his truck and said the word that all of us who had worked on the Upcountry Oversight Advisory Committee about water problems that anything between the meter and the heater is on your property and your dime. I decided not to do anything about the person who was trespassing and causing stress to say the least and the endangerment out of all of that. And that young man walked over and put his hand on the grass and sure enough it was dry and he walked over to the meter and then followed the piping from the meter up to the house and said, oh my God, your meter's been cut, your pipe

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

has been cut. Pipe, nada, pipe. So whoever had done that certainly knew how to maneuver that system. Like I say, plumber, I'm not, but I recognize when water is and isn't there. And it was a Member of the past...of the County Council that brought that up when I was at this meter...at this microphone and asked was it true that the pipe had been cut and I hadn't brought that up. I had tried to follow through with the Water Director and the Deputy Water Director at that time and didn't seem to make an impression that this sort of behavior had gone on. And when I was here for a meeting this year that we're wrapping up now in '16, I was pleased to see that that previous Councilmember had flown back to Maui to bring up the fact that the water system had slews of problems and that when the Water Director said as he had done that he felt the water stuff should be handled for permits by the people who do permits and not the water people. And I went back and got a hold of that piece where he has said that, indeed, he had said that, that was on July 13th of 2016. So right here we heard that the problem is bigger than is being addressed right now. So when I took a look at this call to the meeting, I went back and read on the 7th floor--bless the people who made that documentation available again--the 16-40 and the 16-156 documents --

MS. WILLENBRINK: Four minutes.

MS. ROBBINS: --read those and went over them. Indeed, this should not pass as it's written now. There are slews of things that are gonna come back to bite including lawsuits, I'm afraid. So please don't let this one go by the way it is.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony? Seeing none, Rosemary, thank you very much.

MS. ROBBINS: You're welcome.

CHAIR BAISA: Ms. Willenbrink, are there any other testifiers?

MS. WILLENBRINK: No, Madam Chair.

CHAIR BAISA: Well, let me make a round of the neighboring offices and see if anyone's shown up. Hana, Dawn, is anyone wishing to testify?

MS. LONO: There's no one waiting to testify at the Hana Office.

CHAIR BAISA: Thank you. Lanai Office, Denise, is anyone there wishing to testify?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

CHAIR BAISA: Thank you. Molokai, Ella, do you have anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

CHAIR BAISA: Okay. Thank you, ladies. Members, there appears to be no one in the gallery. I don't see anybody else rushing up and no one in the neighboring offices. So without objections, I would like to close public testimony.

COUNCILMEMBERS: No objections.

CHAIR BAISA: So ordered. Thank you very much, Members.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR BAISA: Today, Members, we have one item on our agenda and that is WR-20. You may recall at the October 7th Council meeting, I requested that Committee Report 16-156 recommending for approval, a revised proposed bill entitled A Bill for an Ordinance Amending Title 14, Article 1, Maui County Code, Relating to Cross-Connection and Backflow Control and Water for Fire Service be referred back to this Committee for further discussion. The purpose of the revised proposed bill is to require consumers and owners of real property to install a backflow preventer on properties connected to the Department's water system and to generally prohibit connections that could contaminate the Department's potable water system. Members, this is a very important but a very complex bill. Because I received last-minute concerns from the Committee and members of the public, as well as people closer to me than that, at our October 7th meeting when this was up for first reading, I decided that it was a...I think we all remember it was a very busy Council meeting, we had a big agenda, lots of testifiers, I wanted to give this the full discussion. So it was my suggestion to bring it back to Committee and I thank you for that support. I felt it was best we have further discussion because of the concerns that were raised. And today, I'd like to hear about any amendments that you might want to consider to prepare a revised bill for our next meeting and this is why we posted no legislative action. Because we had the bill, we discussed it, we passed it out, and then when it got out there people had time to think about it and said, oh, what about this and what about that and this is why I thought better we bring it back, give it time, and discuss possible amendments before we try to take it out of Committee again. And I want to thank you very much for your initial action on it. It was okay, but we hadn't heard some of these concerns and now that we have I think we should talk about them. So with that being said, Mr. Taylor, do you have any opening remarks and can you go into greater detail about the process?

MR. TAYLOR: Madam Chair, I'm sorry for clarification, when you say greater detail about the process, I wasn't quite sure what you were just referring to.

CHAIR BAISA: Well, just tell us what's going on here and what are you hearing. Any suggestions for change?

MR. TAYLOR: I think in general we as a Department don't have any suggestions for change. We feel that the bill as written is the appropriate way to move forward. We recognize there are people concerned about cost, especially for single-family homes. I don't have

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

an easy answer for that other than to say that everything in a building code, electrical code, plumbing code, whether it's GFI receptacles or hurricane straps, et cetera, are costs that provide some measure of safety as is a backflow preventer. This is not something that we've made up. I have been looking for any major utility that doesn't have this requirement and I so far haven't really found one. It is industry standard as it has been in our industry for decades. It was written even in the rules here in Maui County for a long time and it's just kind of lost in the translation to ordinances rather than rules. The other counties have them. AWWA recommends them. Even as a kid I remember mowing the lawn and in our neighborhood, you know, I was mowing lawns for work and mowing lawns around these things. I didn't know what it was at the time but I clearly remember even houses built in the late '70s, early '80s, all the single-family houses had these. So we feel it is industry standard kind of like hurricane straps, GFI receptacles, it is something in codes all across the country because it's needed and we don't feel comfortable just saying just because it adds some cost that we don't think they should be done. We recognize that balance. We certainly recognize the difficult job that the Council has where everyone's saying, hey, this is for safety. We don't find any sort of logical argument that we've seen across the country that says this is something that should be left out.

CHAIR BAISA: Okay. Members, I am going to open the discussion with you folks if you have any questions. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. And thank you for clarifying how it stands over there. But are most of the residences right now, do they have backflow preventers?

MR. TAYLOR: Most residences and...turned it off.

CHAIR BAISA: Need a green light.

MR. TAYLOR: Most residences probably don't. Even new residences coming in, we would look for some reason to have a concern, a swimming pool, a automated irrigation system, something...so just a house that had internal plumbing would not have a concern and would not trigger this even under this bill. It would have to be something that gave a concern. But again, a couple of those standard things that would is a outside irrigation system or a swimming pool, both would create that concern where it would trigger this. But a house that just had, you know, showers and sinks and things like that, a single-family home would not trigger this.

CHAIR BAISA: Mr. Carroll?

COUNCILMEMBER CARROLL: So our bill right now though even all single-family homes that just have a shower and what, they would still, the new ones would still have to have the backflow preventer?

MR. TAYLOR: That's correct. The new ones would.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER CARROLL: And was there anything about retrofitting? Any of the homes that would fall...that we have now?

MR. TAYLOR: This is written...I was trying to think of an analogy. I think a lot of you are familiar with the County sign ordinance, and I promise I will connect this in a second, that the Planning Department administrates. And if you look at the County sign ordinance and you hear the Planning Department talk about it, you can drive around Wailuku or anywhere else and see lots of places that are not in compliance, but the Planning Department has never gone down the street and started citing people because they don't have the staff, they don't have the, you know, it's not a priority. This would allow us, if we wish, to go house to house to house and do that. We don't have the staff, we don't have the intention, even when the board had these rules the Department wasn't doing that. So it would allow forcing retrofits if there was a concern. From a practical standpoint it's going to be a lot like the sign ordinance is that I just don't see any realistic way that we're going to go house to house to house and make people do something unless a concern comes up.

COUNCILMEMBER CARROLL: For now, thank you, Chair.

CHAIR BAISA: All right. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I'm not sure where to find in the bill the section that you suggest doesn't, says that it doesn't, or this bill is not triggered if you don't have a swimming pool or an automatic irrigation system. On Page 5, G, Section G-1, it says the Department shall require the installation of backflow preventers during its review of any building permit application and during any other review by the Department.

MR. TAYLOR: I'm sorry. I misspoke and I was speaking...the fact is we don't see the first building permit for a lot. We don't review that. It doesn't come to us from DSA. So though it allows us to go to any property, we don't even see the first residential building permit on a property. So we won't from a practical standpoint review those things. But again, and thank you for the opportunity to clarify, this does allow us to require it for anyone. We wouldn't from a practical standpoint do that unless there was a concern. We just don't intend to go back and try to, like I said, go door to door looking for these things. But if we chose to it does as you correctly state does allow us to do that.

CHAIR BAISA: Go ahead, Chair White.

COUNCILMEMBER WHITE: I'm surprised that you don't have anything to do with the first building permit.

CHAIR BAISA: You remember when we were talking about fixture units. That first house, there's no limitations at all. I think that's a hole in the law we need to look at.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER WHITE: But do you...so you don't even have a chance to sign off or require anything in the first building permit?

MR. TAYLOR: The first residential property does not get...we don't see those.

COUNCILMEMBER WHITE: You do if you're Upcountry, right?

MR. TAYLOR: For Upcountry...I think Mr. Miyabuchi can answer that.

CHAIR BAISA: Maybe Jase can help us. Jase, would you introduce yourself again please.

MR. MIYABUCHI: Jase Miyabuchi, Department of Water Supply District Engineer. So in, of the entire Maui County including Upcountry this procedure that the Department does not view or make comments on first dwelling billing permits, it's for the entire County. It's not separate. It doesn't separate any districts, no.

COUNCILMEMBER WHITE: Well, it's a surprise to me. Thank you.

CHAIR BAISA: Yeah. It came up when we were discussing the fixture unit 'cause you could build a humongous house and have 100 fixture units. There's no control over that, but then when you try to add that's when we hear about it.

COUNCILMEMBER WHITE: That seems a little bit lame.

CHAIR BAISA: I tend to agree with you, Chair. I think we have lots of work to do in addition to this. Other Members? Ms. Cochran, questions?

COUNCILMEMBER COCHRAN: Yeah. That was, that's the big question there that we were just discussing which seems quite odd to say the least. But, yeah, and so I was trying to figure out the...I can see the intent, I mean, the purpose of this and it looks like it's been around, was never codified in our County Code so that's what we're trying to do. And I was trying to figure out consumer, owner, we're gonna require all consumers and owners to do this. And you stated that you haven't seen any utilities not use it, so I was just, I mean, I was looking more big companies, Hawaii Water Service, Kapalua Water, Makila, Wailuku Water Company, people like that who if their stuff's gonna tie into us, you know, they need to have this precautionary measure of sorts. So, I mean, I assume they are also tied into this rule along with our single-family and the, you know, everyday people. Is that true? Are they all encompassed in this too? The bigger...

MR. TAYLOR: Yes. That's correct. And essentially so we have our utility lines and any connection to that would be the customer whether that customer is a huge customer or a single-family customer. That's correct.

COUNCILMEMBER COCHRAN: Okay. But they're not customers, they are feeding us the source.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MR. MIYABUCHI: So if...sorry, if I may add to that. So those companies, they're private water purveyors, which they have nothing to do with, you know, our Department. We don't monitor them. We have no jurisdiction over them. So say for those subdivisions, if a building permit were to be applied for and they're getting service by those private water purveyors, typically those building permits does not come to our Department for approval. So we would not have the opportunity to make any type of requirements, because they're a private water system.

COUNCILMEMBER COCHRAN: So those guys completely don't ever connect anywhere down the line ever, ever, ever? So no, there's no cross contamination that can occur from any of those private water companies?

MR. MIYABUCHI: Well, again they're...we don't see those permits so we're assuming that they're not connecting. So, I mean, we don't...

MR. TAYLOR: I think...there is no...I think the answer to your question is that is correct. If you have a private water company, we don't share pipes with them. They are a completely separate system. They're...our water does not go to them and their water does not come to us. The pipes are literally not connected. So I think that's the answer you're looking for.

COUNCILMEMBER COCHRAN: Okay. All right. Well, they don't even look at our own permits that we do give water to so much less the other guys. And then it looks like it's a, I guess to stop the backflowing. In particular it says and when there's due to a line breakage or mishap with fire hydrants. What does that mean? What's a mishap?

MR. TAYLOR: So our...the water system, all water systems are pressurized so usually that water is going from our pipes into your house or into a business. It runs that one way. When a line breaks or when somebody runs into a fire hydrant or when even there's a big fire, there's a huge amount of flow coming out of one point more than usual, that can basically suck back the water through the system because it's such a high volume, more than normal and actually suck it back from your house or business. So if you've got, let's say, a swimming pool connected and there's birds that have been, you know, in the pool and diseases and things and down the street, somebody that runs into a fire hydrant, there's a big fire, a line breaks, that water from your swimming pool can come back through the pipe into our system and whatever is in your swimming pool is now in the potable water system. That's what these are designed to prevent. Basically a double stop so that once water gets to your side of the meter it cannot come back. That's really what the mechanics of what this is and that's the concern of what happens. It's when there's either a line break, a fire hydrant breaks, or there's a large fire.

COUNCILMEMBER COCHRAN: Okay. That even raises more red flags for me. So currently these backflow devices or whatever they're called are installed, I mean, and people some people are doing it but this is just gonna require mandatory, you have to do it? So, I mean, just after just said what you said, are we in, you know, are we at risk since we only now we're starting to implement this and codify it? So I'm just...how

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

many permits and things have been built prior to today that have what you're explaining, swimming pools and outside irrigation, I mean, you name it.

MR. TAYLOR: Many.

COUNCILMEMBER COCHRAN: Yeah.

MR. TAYLOR: And exactly what the chronology of history of this I don't know. I know the rules seem to go back a long time. They don't seem to have been enforced consistently. I can tell you that this building that we're in right now, just a few years ago, I think it was when the improvements were being done on the 9th floor, I believe, I wasn't with the Water Department at that time but my recollection is the Water Department refused that building permit even though it didn't have any plumbing because there was no backflow preventer on this building. And so that was just to do the, imagine, I think it was under the Tavares Administration, I believe, that the Mayor was told, look your building permit is stopped until as part of your internal tenant improvement you install a backflow preventer on this entire building. Somehow when this building was built it was not included. Exactly why that is, I don't know, and we run into that often. So anything new being built seems to be caught. There seems to be this gap where things were built that don't have these. We've been trying to catch up as people come in for building permits. And without this actual ordinance, we've been advised by Corporation Counsel that we should really have an ordinance to do this and not just say, look it's a requirement of the Department to get your building permit. So it was really those cases you're talking about that led to us being here today that we don't have any real teeth to make, for example, you know, the County Building do this. And in that case, I think back in the day, I think the Department just sort of held the building permit hostage and I recall sort of the Mayor not being real happy about it but it got done. You may have something to add, I think you were here during...

COUNCILMEMBER COCHRAN: So we don't know then offhand if we've had any negative repercussions then of not enforcing this all throughout the decades. We didn't even know, right? Something could have happened, you don't know, you haven't tested or looked...

MR. TAYLOR: We test water regularly. Obviously we're not testing everybody's service every day and we have no evidence that anything bad ever happened though, you know, you can't prove a negative. I think Jase had something to add.

COUNCILMEMBER COCHRAN: Okay.

MR. MIYABUCHI: So if I could add a little bit to that. So our newer type of meter boxes and even on the old laterals and the older meter boxes when they were constructed years ago, there are in-line check valves that do exist. The newer boxes they have a dual check valve, two check valves in them. The older laterals had a single check. So the existing condition out there is that there is some level of protection in the case of a backflow condition, not as extensive as what this ordinance is proposing which is, you

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

know, above ground, an actual assembly, a reduced pressure assembly which has more backups in case there's a backflow condition. But out there right now existing because of the meter box and the way the laterals are constructed there is some level of protection now.

COUNCILMEMBER COCHRAN: Okay. That's good. But you're not gonna catch anything until...you don't even look at the first building, the permit, so you're not gonna catch anything 'til this, an add-on or something occurs at a dwelling, because you folks don't even check the first go around. So I don't...that kind of throws me off a lot but anyway.

CHAIR BAISA: Thank you, Ms. Cochran. Chair White is trying frantically to get my attention. If you don't mind, Mr. Couch, we'll give him a second shot and we'll get you.

COUNCILMEMBER WHITE: I guess my concern, Chair, is that we have a situation where if you want to build a new residence with both a pool and a automatic irrigation system which are the two systems that the Director is saying cause the potential for backflow. So you can build that without ever going through the Water Department for your first residence, but if you want to add a bathroom and that pushes you over the fixture count even though it's internal and he says it's not gonna have any impact you gotta go put in a backflow preventer. So I'm now kind of feeling like I don't want to vote for this until people who are potentially risking safety to the system are included in it. I don't know, Director, I'm kind of flabbergasted that we're sitting here with what I can only look at is kind of a half-baked bill. If it's critical that we do this, then I would suggest that it's critical that we do it right and not leave big holes for every new home to be built to go without a backflow preventer if it's a true safety issue. And if it's not critical to have everyone brought into it, then it's not critical for anybody to be put into that position so.

MR. TAYLOR: Agreed. And in fact, we've had this discussion internally. Just so you know, it's an internal procedure that we're not seeing from Development Services this first building permit. At the same time, we have a good relationship with them. If this bill was passed one of the first things we would do is say, when you see in DSA, even your first building permit, first structure on a property that has exterior landscaping, irrigation systems, swimming pool, we'll make a list of things, we want to see those, you know, a backflow preventer is going to be required because there's this bill. That's something that I think internally administratively that once a bill is passed it's pretty easy to have the people in DSA flag for those things and let us know.

COUNCILMEMBER WHITE: Okay. But that still doesn't answer the concern that I have that if you're just adding a bathroom this is still going to, you're gonna be forced to do a backflow preventer even though you're not doing something that is a risky, you know, that's putting the system at risk. So how do you address that?

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MR. MIYABUCHI: I mean, in the proposed ordinance there is an exemption that the Director at his discretion may waive the requirements for a backflow preventer to be installed for building permits. So that is written into the ordinance.

COUNCILMEMBER WHITE: So the Director's going to be responsible for everyone's approval that wants to avoid a backflow preventer? It doesn't sound very efficient.

MR. TAYLOR: We would have to write a...that's the kind of thing where the Director assigns to staff, you know, under these conditions we're not requiring them, that kind of thing. So that's...I wouldn't necessarily see every one of those but there would be direction to staff when these issues are coming up, hey, we're resolving 'em and giving a blanket pass to people in these conditions, that kind of thing.

COUNCILMEMBER WHITE: So you mentioned that if this bill passes, it'll provide them a list of types of things that would be required to install a backflow preventer. What would that list include beyond the irrigation system and swimming pool?

MR. MIYABUCHI: Two other areas of concern would be some sort of dual system like if they have an onsite well. If they have an onsite water tank that they're using, say for irrigation, typically that has a booster system on it, so we would be concerned about that condition as well.

COUNCILMEMBER WHITE: Okay. So you're suggesting that if somebody applies for a building permit for just a bathroom that it's not going to be triggered?

MR. MIYABUCHI: If there is evidence on our review of the building permit that these conditions exist, you know, that might be, we might require it at that time. We see on the plans there is an onsite tank being fed somehow or the site plans shows that there's an existing well so in those cases we could require it, yes.

COUNCILMEMBER WHITE: Is that stated anywhere in the bill that this is limited?

MR. TAYLOR: It is not stated. It's just the exemption that Mr. Miyabuchi talked about. So this is...I'm glad we're talking about this. I sort of thought we were going to talk about this last time, maybe we rushed through a little too quickly. This is the challenge we have, we don't want to be holding up the residential building permit process by seeing every one of them. We recognize that that's just going to slow things down more. At the same time, we need some teeth that if there's a problem to get in there and there is some judgment. We struggled with this to try to come up with some certain way that without seeing everything we catch what we want to catch, and we have been unable to come up with any way to balance those and this is our best balance of these concerns you're bringing up. But we don't...I don't disagree with your concerns. We've tried to resolve as best we can but again we don't want to clog up the whole system by seeing every residential building permit. We know that's gonna slow everything down.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

CHAIR BAISA: Mr. White, we're going to give Mr. Couch a chance and then we'll come back. Thank you very much.

COUNCILMEMBER WHITE: I did see him looking my way intensively, so.

CHAIR BAISA: Yeah. He's not happy with both of us, because he's just dying to tell us his concerns. And, you know, I'm really happy we're having this discussion because this discussion began, like I said, after we passed it out of Committee. And I felt it was really important that we have it and so let's go for it. We are considering amendments today and maybe considering we don't pass it or maybe considering we pass it. It's up to us after we have a full discussion. Go ahead, Mr. Couch.

COUNCILMEMBER COUCH: Thank you. And thank you, Mr. White, for pretty much going down my very big list of questions for me.

CHAIR BAISA: He's the Chair.

COUNCILMEMBER COUCH: So to follow along with what Chair White was talking about, can we not just list those four things that you were saying, saying if these people are coming in for any kind of permit that includes any one of these four things then we can require the backflow preventer? This whole thing right now, the way it reads, somebody comes in with a deck, they want to put in a deck. You have the option, actually you're kind of required to unless you exempt, they're required to get a backflow preventer. That's the way I read it. Now if I'm reading it wrong, let me know. But I would say we can put the, in there, the four things that this list that you were gonna give the DSA, put that in the law, and say if these, if you're gonna do any one of these things then you need to do the backflow preventer.

MR. TAYLOR: Member Couch, if that went in for residential only, I think we could absolutely support that. One of the issues we have with non-plumbing based permits is when they're tenant improvements in shopping malls for example. The tenant comes in, they're just doing non-plumbing improvements, but you have a whole shopping mall that doesn't have one. So that's sort of where this whole thing came from and that was really our biggest problem. But if for residential, we just listed those specific things and I think we can, yeah, we'd be fine with that.

COUNCILMEMBER COUCH: And, Madam Chair, that seems to be the sensible way to do this is put those specific items, whatever list that they were going to make for DSA put it in the law and then for single-family residence and then move on.

CHAIR BAISA: Right.

COUNCILMEMBER COUCH: But the other question I have, you said your administrative rules have no teeth or Corp. Counsel said your administrative rules have no teeth?

MR. TAYLOR: There are not administrative rules. What there was the old board rules that did not get transferred to ordinances and...

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER COUCH: Gotcha, okay.

CHAIR BAISA: Yeah.

COUNCILMEMBER COUCH: All right. I understand that. And I know I share I think everybody's dumbfoundedness that you don't have some sort of look at all the permits. I understand you don't want to hold up the process and I understand that but especially with the fixture unit count, maybe on your list that you give to DSA say flag it if it exceeds the fixture unit count but...

MR. TAYLOR: Mr. Miyabuchi can maybe give a little history about how far this goes back and what happens.

CHAIR BAISA: Go ahead, Jase.

MR. MIYABUCHI: Yeah, obviously before my time but it might have gone back to, maybe back into the mid '80s maybe. And from what I understand, again, it was just a mechanism to not flood the Department with a bunch of permits that we're gonna delay for people. So I think that was the main reason why it was done that way.

COUNCILMEMBER COUCH: Right. But you're giving them, I mean, they already have kind of a list of something to look for, and I would assume that fixture unit count might be another one that you would want to add to that list.

MR. MIYABUCHI: So again from what I understand, anything besides the first dwelling, the building permit on an empty property it does come to us, pools, ohanas, additions, those types of things, non-dwellings.

COUNCILMEMBER COUCH: Oh, okay. So let me see if I can clarify this. Empty lot, somebody, you know, Mr. Taylor wants to build on his Wailuku Country Estates lot and he wants a house, a pool, and an irrigation system, first permit. Does the Water Department see that because it has a pool and an irrigation system?

MR. MIYABUCHI: I believe we see the building permit for the pool.

COUNCILMEMBER COUCH: But not the irrigation system?

MR. MIYABUCHI: I don't know that you need a building permit for an irrigation system.

COUNCILMEMBER COUCH: You kind of need...you need a plumbing permit, I believe.

MR. MIYABUCHI: Yeah. Currently, the plumbing permits do not get routed to our Department for approval.

COUNCILMEMBER COUCH: Plumbing permits?

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MR. MIYABUCHI: Straight plumbing permits without...

COUNCILMEMBER COUCH: Plumbing is for water, right? Okay. All right. That answers that line of questioning. How much does this device cost? Somebody I...somebody keeps throwing around \$500. Is that what it costs for something like this?

CHAIR BAISA: We'll ask Mr. Miyabuchi to answer.

MR. MIYABUCHI: Yeah. For the initial installation numbers I'm hearing about maybe to a couple 100 maybe. For the yearly maintenance and the yearly testing, maybe 75 to a little over a 100 maybe.

COUNCILMEMBER COUCH: But that includes the device and installation from a certified plumber, couple hundred bucks?

MR. MIYABUCHI: That's what I understand.

CHAIR BAISA: Chair, we received a written quote from Pural and they said 500 to \$600 for a regular house, a 3-bedroom, a regular 3-bedroom house. But I'm really glad to hear about a quote on the annual testing requirement because that was my husband's big concern. He said, what are you doing, people will have to pay this fee every year. So I'm hearing we tried to get in touch with them this morning to see if we could get a better quote on the annual inspection, but they were not available.

COUNCILMEMBER COUCH: Okay. Well, and that's the other part is the annual inspection, yeah, we all have stuff that we're supposed to annually inspect, but I'm sure we push it sometimes. What happens if...first of all, people don't understand that there's an annual inspection. I didn't know that you needed one and I don't know that our condo complex knows that you needed an annual inspection. What happens...what are some of the things that they're inspecting for? I would think a five-year inspection or something like that but to require an annual inspection, is that absolutely necessary?

MR. TAYLOR: We'd have to go back and look at that. I don't...I know the commercial ones are an annual inspection whether or not what are the normal failure modes of this thing and how often it needs an inspection, I, we would have to look back at that.

COUNCILMEMBER COUCH: And, Madam Chair, that would be one thing that if they can get us a number and maybe we can say every three years or something like that just to put that burden, yet another burden on the residents is kind of, you know, we have to be very, very careful. We have taxes, we have fees, we have, you know, we're just piling more and more on the residents. So anything we can do to mitigate some of that would be appreciated, but I'm all for the list to find out what the actual periodic inspection really could be. So those kind...

CHAIR BAISA: We'll definitely have that available for the next meeting.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

CHAIR BAISA: Ms. Crivello, let me give you a word in here and then we'll make another round.

COUNCILMEMBER CRIVELLO: I appreciate that. Don't get those guys rolling, you'll never have a chance. So you talk about regular inspections and checking water supplies. So let's say, what's your average measurement that comes out with contamination throughout your regularly Department's inspection?

MR. TAYLOR: It's very rare. Every year everyone gets a consumer confidence report in the summer, and I think if you look back at those many years there's no incidents and perhaps there's one or two in an area here or there but it's very low.

COUNCILMEMBER CRIVELLO: So let me back up on that. So if residence that...does that include residence that does not have the backflow preventers?

MR. TAYLOR: So we check our system, that means basically out in the distribution system. It means we're checking at fire hydrants, we're checking at certain places, and we're not checking everywhere all the time, it's on a rotating schedule as per Safe Drinking Water Act requirements. That if there was a backflow problem that happened at some instantaneous time for, let's say, 15 minutes and we weren't testing during those 15 minutes and it got washed out, we would have, of course, never know that. So the testing procedures are really built to test for the reliable consistency of the water we're producing. Our testing procedures are not built to find if some, if there was a backflow failure and something was contaminated from that. That would just be sort of a spot occurrence that would almost certainly get by any sort of testing program.

COUNCILMEMBER CRIVELLO: Thank you, Mr. Taylor. So when we're installing or...so we're trying to require or we are requiring our homeowners to pay an additional 500 to \$600 to install backflow preventers, and yet it's very rare for us to be noncompliance to our safe drinking water. Is that what I'm hearing? So you're saying it's a rarity for us to...our safe...we have safe drinking water, that's what I'm hearing, throughout your testing.

MR. TAYLOR: The water we produce is safe drinking water.

COUNCILMEMBER CRIVELLO: Right.

MR. TAYLOR: The backflow prevention program is meant to inhibit any unsafe acts happening on private property from coming back into our system.

COUNCILMEMBER CRIVELLO: You're right.

MR. TAYLOR: Our testing program's not really built to look for that.

COUNCILMEMBER CRIVELLO: Well, I'm trying to understand the necessity for all residential homeowners to have the backflow preventer installed.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MR. TAYLOR: So the necessity or the reasoning would be if as a community we're concerned that of the 36,000 customers they can do something on their property that could cause contaminated water to come back into our system and go to their neighbors. It's the only way to protect against that occurring.

COUNCILMEMBER CRIVELLO: Okay. And so with that being there it would also include inspections for other cross connections that the homeowner may do?

MR. TAYLOR: Basically, once there's a backflow preventer what the homeowner does on their side after that is not really the concern of the Department, because whatever's happening within their property doesn't come back and affect our system.

COUNCILMEMBER CRIVELLO: So it's okay for the homeowner to have unauthorized connections? That's...you're just saying it's none of your concerns, but then we need to have that backflow preventer and maybe they get that installed and maybe they have unauthorized, some unauthorized connections.

MR. TAYLOR: So if a private property owner is somehow building their plumbing system not in compliance with the Plumbing Code on their side, that's really a Public's Works Development Services Administration plumbing section issue about how they look for that and check for that. Our issue is we want to make sure that doesn't come back into the public water system, whatever plumbing issues they have. But we, but yes, we do not get into the details of how people plumb their private property and whether or not, so for example, whether or not their swimming pool can contaminate their sink, we're staying out of that, but we don't want their swimming pool to contaminate their next door neighbor's sink. That's what we're saying.

COUNCILMEMBER CRIVELLO: Okay. I still kind of don't get it but fine. Thank you.

CHAIR BAISA: Thank you, Ms. Crivello. We'll make another round here. Mr. Carroll, any further questions or discussion? Put your mic on, please. I forget all the time.

COUNCILMEMBER CARROLL: Thank you, Chair. The civil penalties in Section 3H are very specific over here about owner to comply with the Department requirements relative to cross-connections backflow, within 30 days' notice the Department shall be sufficient reason for discontinued water service. There's also a \$500 a day fine. The reason I find this troubling is our Land Use Committee, if you might know, if you will remember, how many times we put in redundant language because we're upset because enforcement is not there so we go over there and make conditions. We have this over here where our Water Director has said, you know, we don't have the ability right now to go outside to, you know, homes and look for problems. However, this Council has always been very persistent in having the departments do this enforcement and I do not see the Council slacking off on that, either looking for give them extra fund or monies to do this. It will seem that when we have something like this and we kind of let it go by because, well, we can't enforce it anyway, I have a real problem with that because what happens next term when the Council or the next

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

Administration says well, you know what, we are going to start enforcing all of these laws and we are going to go out there. This would be a disaster, because they would be so flooded with permits nobody could do something within 30 days. It would be a real, real problem. Now as the Director said right now at this moment in time there is no intent to do so. Well, I think it's a little shortsighted just to take that as it is. And I'm not too sure what kind of language we could put inside there to give some protection. If there's a retrofit where you going outside and finding an existing one that there's a retrofit on, that you would have a different time period, something like that. I haven't had a chance to give that an awful lot of thought right now but I really think it needs to be discussed 'cause in this Council it's gonna be persistent in our desire to see laws enforced. We need to think of it. Thank you, Chair.

CHAIR BAISA: Thank you, Mr. Carroll. You know, you raised a question that's been in the back of my mind and that is, yes, we want to protect our water system. It's really important and I know why they brought this to us. And we all agree that we want to safeguard the water system, but we really don't wanna overload poor Jase who is already struggling to try to get our water meter list done. We don't want to give him a whole bunch of building permits to look at and that'll make that situation even worse. So what you raised I think is really important. Mr. Taylor, any comments?

MR. TAYLOR: We agree with, you know, we don't disagree with the concerns raised by the Council. I'll go back, I want to talk about Environmental Management's previous grease trap methodology. There was a time there was no grease traps. There was really no grease trap ordinance. So what they did is they said within two years or three years every place that needs a grease trap will have one. And so I think they came up with, you know, 500 or 800 of them, a law was passed by the Council, and certified letters went out to every single person who needed to retrofit. It said you have, you know, two years or there was follow-up letter. I don't remember the details, but it was a very orchestrated attempt to say we will catch every single one of these and there's a current staffing that does this and, you know, it cost a lot of money, it took a lot of time, not all the businesses survived that. Some went out of business because they couldn't afford it. We didn't think something analogous to that was practical, though it would be my sort of wish if we could do that to identify, you know, how many thousands of these there are, identify which ones, pass an ordinance, send certified letters, give people two years. We just don't think it's practical to do that. So we thought the best way to do it is sort of what we're doing now is as people come in we catch more and more and as time goes by more and more people have these without the sort of draconian way of saying look there's a drop-dead date, everybody has to have one. So if the Council does support this concept but would rather have us do, what I'll call analogous to the grease traps, about saying we are doing this and within five years everyone will have one. You know, we could do that. It would just take more resources and take more of a sort of a stronger ordinance, very analogous to how the grease trap bill was done. But again we thought that the best way to handle this was to just have some teeth that as people come in for building permits to just keep catching up so every year there's less and less problem. And that was sort of the middle ground of doing nothing versus trying to do everything in a very short time period at a high level of resources. So that's why we ended up with this.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR BAISA: Okay. Mr. White?

COUNCILMEMBER CARROLL: That still...

CHAIR BAISA: Oh, I'm sorry. Are you through?

COUNCILMEMBER CARROLL: That still doesn't really solve the problem of what this Council really wants to do. I mean, we're saying, and I agree, you know, right now in this point in time it probably isn't the problem, but I have a problem with next year or the year afterwards that the wording inside here could cause a problem and I don't think the Council is gonna back off on really pressuring administration and different departments to do the enforcement of the laws that we pass. And it's very difficult for me to pass a law that we're saying, well, you know, it's not really enforceable so you don't have to worry about it 'cause it's not practical. And if we're approaching it like that, I mean, I really think we need to think about that. I have...I'm sorry, for public safety we need to do it but we need to do it in the right way where it's not overbearing our people and it's something that we can pass out from here and say well, it's gonna get done within a period of time and we're passing out something that can be done if we're going to go into enforcement. Thank you, Chair.

CHAIR BAISA: Thank you very much, Mr. Carroll. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Director, I have a hard time feeling this is analogous to the grease trap law because grease traps were not required of residential properties and so it was a much, much smaller number. And you can make the case that we should have had grease traps on private residences or maybe some private residences that had a lot of, you know, a lot of propensity to dump grease down the drain. But that said, my addition to what Mr. Couch mentioned was that if we're going to do this on a, you know, as-permits-come-in basis then I think that's probably the only way it can be done with the existing resources, then I would hope that we would require that if somebody comes in, if somebody has a pool and an irrigation system currently and they come in and put in a permit for a new bathroom that they would be subject to putting in a backflow preventer. And if this, you know, if the issue is safety of our system then it should be applied to people who currently have pools and things without backflow preventers. So that's the only change I would make to Mr. Couch's list but anyway.

MR. TAYLOR: We concur and if it's not clear that is exactly the intention of what we're trying to do. Maybe we didn't make that clear enough, but we don't disagree with a word you just said.

COUNCILMEMBER WHITE: Okay.

CHAIR BAISA: Okay. Ms. Cochran?

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER COCHRAN: Thank you. And I completely agree with Mr. White's discussion here and, yeah, it's not clear what he's saying, I think, what a lot, all of us have been trying to say or it's not written as for our layman's eyes trying to read these things that you folks just take for granted is understood, to me it's not clear. So I don't see that the general public understanding any of this either. And so, yeah, I'm still very concerned about existing properties that have all these potential risk to have, that have potential contamination into our system that's been occurring for many, many, many, many years. And now you just want to get this through to address new things that come online, yay, great, we're aware. But, you know, to me I think there's...I can drive down Front Street and tell you which homes have swimming pools, which homes have irrigation right now. I don't...you know, and all the condos all up and down Napili, Kahana and all that, I don't know. Do they have backflow preventers? They were built way back in the day, so perhaps not. Do we have a risk there? I don't know. That I would think would be the Water Department's job to know. And so if it's not clear I'd like to put this type of verbiage in here, you know, I think the top four, irrigation, the dual system, if there's a well water tank onsite, swimming pool. And, you know, I'm reading here, you're saying places that have used water, industrial fluid, gas or any other type of substances. So is that like a gas as in gas stations, liquid gas, not gas, vapor gas?

MR. TAYLOR: Any commercial establishment would have one. So all of the things you just mentioned would be covered under this.

COUNCILMEMBER COCHRAN: Okay. Well, that's just the under definition of cross connection so that verbiage is saying these things have that potential, this is why we need this cross...means any actual or potential connection, blah, blah, blah, and then it lists, you know, these systems that include this type of arrangements have this potential and these cross connections are to be considered. So, you know, but that...so I don't know. It's just a lot of words in here that, I think, if it could be a lot clearer, but I really think that one loophole that we opened up the discussion with in regards to that first initial permit and not have any oversight on that one. To me, I know DSA is flagged and they kind of have this in the back of their mind to keep an eye out, but I think it's really key that we have the Department that's in charge of seeing that clearly be a part of, you know, that initial, you know, go ahead on the first permit. So that I think is part of the uncomfortableness for me anyways --

CHAIR BAISA: Thank you, Ms. Cochran.

COUNCILMEMBER COCHRAN: --in relation to this.

CHAIR BAISA: You know that's a takeaway from today's meeting. I will definitely be trying to get in contact with DSA before our next meeting and if possible have them here.

COUNCILMEMBER COCHRAN: Okay.

CHAIR BAISA: Yeah, when we discuss this again.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER COCHRAN: Yeah. Okay. Very good.

CHAIR BAISA: Okay.

COUNCILMEMBER COCHRAN: Very good. Yeah. Some changes, some work still. Thank you, Chair.

CHAIR BAISA: Well, you know this like I said turned out to be very complicated, the more we talked about it, the more we saw. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. Just a quick question. You mentioned this a couple times, you have a single check valve in the meter and the newer meters have a double check valve so that lessens your concern right now. Why won't those valves be sufficient, I guess?

MR. MIYABUCHI: Those are, again, inline valves, they're buried under the ground so, I mean, they do their job which is to prevent backflow, but they're not tested, you know, they could fail at any point because nobody monitors them. They're just there in the ground just sitting there, yeah. So they are effective in preventing backflow though, but again nobody knows if ten years from now they'll stop working versus these above ground assemblies where, you know, if they get their annual testing they're making sure that it's working properly and the valves are closing.

COUNCILMEMBER COUCH: And that's why they're above ground so that they can be tested?

MR. MIYABUCHI: Part of the reason. One of the other reasons is there's a valve that dumps water when there's a backflow condition so we don't want that sitting in a manhole underground where that water could be sucked back up into the system, yeah. But that's another reason.

MR. TAYLOR: In addition, the single flow, the single backflow preventer, just imagine a little pipe. It's basically a little hinge with metal and it just flaps and there's a metal spring on it, it's all contained, it's buried. Just having seen these in treatment plants when they're not buried, maybe you get ten years till they rust then they stop working and they fell open...meaning they just rust open because they're always under pressure and they never close ever again so they're working except they don't close but there's no way to know they don't close unless you can see it and there's a little actuator you can see when it's closed but they basically just rust open. And so you kind of know from a practical standpoint if you're gonna bury one under your foundation, I would bet that very few of them after ten years actually close. I've never seen a spring work that long that isn't maintained somehow.

COUNCILMEMBER COUCH: Are they under the foundation or are they in the water meter?

MR. TAYLOR: Well, they're somewhere, you know, they're buried somewhere.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER COUCH: Oh, it's not...I thought it was part of the water meter setup.

MR. TAYLOR: Those can be. Other ones as part of the Plumbing Code I know are sort of buried somewhere in your plumbing.

COUNCILMEMBER COUCH: Okay. And so, I guess, Madam Chair, we're looking at we need to balance the risk versus cost and if the risk is such that it outweighs the cost then, yeah, I mean, we need to do that and it would be similar to make, going out there and making sure everybody does it if it is that important. If it is not that important, then slowly putting it in as you suggest is probably the better way because you have the check valves. I just have a hard time, you know, if we do your list I think we're good, especially with what Mr. White, Chair White said so if we can get that narrowed down and I'm fine with that, 'cause we do want to protect the system.

CHAIR BAISA: Right.

COUNCILMEMBER COUCH: And we sort of have protections like you say with the check valves, but they may rust open. So okay, that makes more sense. Thank you.

CHAIR BAISA: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. Real fast question. Is it you or the Department of Public Works that determines that the installer for the backflow prevention device is a certified...needs certification? Do you make that determination or is that part of the Building Code? Or is that noted?

MR. MIYABUCHI: Yeah. So when the...when we...if we were to make a requirement for someone to, like in a residential dwelling, residential property to install this backflow, we let them know which types are approved that we view as approved as a Department.

COUNCILMEMBER CRIVELLO: Yeah. The actual device or the --

MR. MIYABUCHI: The actual device.

COUNCILMEMBER CRIVELLO: --actual installation, installer?

MR. MIYABUCHI: The actual device.

COUNCILMEMBER CRIVELLO: Okay.

MR. MIYABUCHI: Yeah. You have to be specially licensed to be able to test these backflows. I don't know if you have to be specially licensed to install them. That I'm not sure.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER CRIVELLO: Well, I guess, that's my question. But that wouldn't come from your Department, right? That would be coming from meeting whatever code it is for the building?

MR. MIYABUCHI: Perhaps maybe the plumbing inspectors take a look. The initial test on these brand new backflows we do, it comes from our backflow section.

COUNCILMEMBER CRIVELLO: Okay. Okay. Thank you.

CHAIR BAISA: Okay. Members, further questions? Ms. Cochran?

COUNCILMEMBER COCHRAN: Real quick, usually in our bills it states like the Department will be Water Department 'cause in some, a lot of these just says the Department. I mean, we know who we're talking about but a lot of times in our definitions, you know, set forth the Department will be noted as the Water Department. Director will be Director of Water Department in our...so I'm not sure if that needs to be here, but...'cause I was looking at the section about permits and it says, number one, permit by, you know--where is that--by Department...building permits, G, item G. The Department shall require installation of backflow preventers during its review of any building permit application and during any other review by the Department. But at that point, if the Department was Public Works, Public Works could be determining this on your behalf because you already notified them to please flag these certain items. You know what I mean, Chair --

CHAIR BAISA: Yes.

COUNCILMEMBER COCHRAN: --or whoever?

CHAIR BAISA: Yes. Mr. Taylor?

MR. TAYLOR: Ms. Oana can answer that.

MS. OANA: So in 14.01, that's the definition section for the water, the Maui County Code, Water Code. And so in those definitions, Department is Department of Water Supply, so from 14.01 to 14.12, I believe, or 14.13 that's all the Water Department's Code.

COUNCILMEMBER COCHRAN: Oh, okay. So it's...

MS. OANA: So anything from 14.01 through 14 point, I think, 12 or 13 it's Water Department.

COUNCILMEMBER COCHRAN: Okay. So it's stated. But in that section, I mean, either we have your Department review initial building permits or allow the people who do oversee it which is DSA, Public Works to determine at that time, because you folks are only getting the retro, I mean, the after the fact whatever add-ons after the first initial permit scrutiny.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MR. TAYLOR: I think we're talking about just having them flag it and sending it to us, not making any determination.

COUNCILMEMBER COCHRAN: Okay.

MR. TAYLOR: And I think the language that Mr. Couch suggested, it would still be within our purview, we would just share that with them and say when you see these things, you know, send them our way, but we would still process it to make the determination.

COUNCILMEMBER COCHRAN: Okay.

CHAIR BAISA: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. Lastly, you know, if we put this in with all the changes or anything, how will the customers be notified? Is it gonna be when they come in for a building permit then they're gonna know or you may want to send out a letter to everybody saying hey, look if you've got these you're gonna need a backflow preventer? You know, are you gonna notify the customers or is this gonna be a surprise to them when they want to come in to get a permit?

MR. TAYLOR: I think there's a lot of surprises when people come in for permits.

CHAIR BAISA: Yes.

MR. TAYLOR: A lot of people don't realize and so I know it's a constant effort to tell people, we've had working sessions with professionals, architects, and contractors to try to say, you know, here's the issues that each of the departments have. We've organized these a number of times because there's so many various requirements from different departments that you may not think you're triggering. So we have never come up with any one way to say if you're doing x, y, z, you know, here's all the requirements that apply. It's...I think there's too many cases. I don't have any efficient way to do what you're suggesting. We could do it for this one thing but then there's, you know, 100 other things that wouldn't be included.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR BAISA: Well, you know how hard it is for us to get the word out about anything, but I have to say that, I think, the Council has been working really hard on transparency. And I am happy. Many times I turn on my Facebook which I love and there it is, you know, what we've talked about today, and then we have our County website and so we're doing, I think, a better job of getting the word out, but it's always hard. It's always difficult. And, of course, Chair can always help us with three minutes, you know, something. But we really need to talk a lot more particularly when we make changes. I think people would want to know and it's our duty really to let them know. It helps in planning. Ms. Willenbrink?

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

MS. WILLENBRINK: Madam Chair, yes, excuse me. May I just get clarification on the four?

CHAIR BAISA: Four items?

MS. WILLENBRINK: Yes, please.

CHAIR BAISA: Oh, okay. We'll ask the Department and they can work on it if they're not ready. Would you prefer that we deal with this later, guys?

MR. TAYLOR: That's fine. We'll work with Ms. Willenbrink to make a precise list of those things and what the proper names are.

CHAIR BAISA: Yeah. I think we have some ideas of what they are but let's firm them up rather than putting them in stone today. Looks like we have, you know, a lot of work to do still on this bill. Is there any further questions or discussion?

COUNCILMEMBER COCHRAN: Chair?

CHAIR BAISA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, this section about the surety bonds and things, surety bonds and the sum equal to the cost of work plus 50 percent, et cetera.

CHAIR BAISA: Ms. Cochran, you want to tell us where you are, honey? What page?

COUNCILMEMBER COCHRAN: What page is that, Page 6, B.

CHAIR BAISA: Six-B.

COUNCILMEMBER COCHRAN: What is that, a one?

CHAIR BAISA: Okay. I see it at the top of six.

COUNCILMEMBER COCHRAN: Yeah. And that is in reference to what, if Department has to go in and install this you want to make it, you know, reimbursable by the owner, consumer, whoever you have to put money out for or what is this section all about?

MR. MIYABUCHI: So the purpose of that is if someone were to come and apply for a building permit and we make this type of requirement, of course it takes some time to get it, you know, to get it installed and tested and whatnot. So there may be times when they need the building permit right away completely approved by the County, so this is the mechanism for them to bond this work to install the backflow in order to get our approval on the building permit application. And so in the course of, yeah, say a year, if it's not, then that gives us the mechanism to go in there and install it and have it tested.

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

COUNCILMEMBER COCHRAN: The money is there to be utilized because they put it up front?

MR. MIYABUCHI: Correct.

COUNCILMEMBER COCHRAN: Okay. All right. Good. Thank you, Chair.

CHAIR BAISA: Okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And thank you, Chair, for bringing this back because, like you, I heard from a lot of folks that said, wait a minute. And I appreciate the Department's concern about the system and it's very important that we keep the system clear of contamination. And I realize, too, that it's more towards commercial is where the big concern is because, you know, there's quite a few families out there that have maybe a water sprinkler system. It's more towards the water sprinkler system that, I don't know, you've got check valves, these are newer, usually newer places, so I want to make sure that we're able to make sure, have some compassion for those folks that are trying to make ends meet and we keep piling on more and more stuff. So just keep that in your head when we're... 'cause we all have to deal with that every time. So I appreciate it. Thank you, Madam Chair.

CHAIR BAISA: Thank you, Mr. Couch. You know, in the past few months since we've been talking about this it's been very interesting at home, because my husband always ask me a lot of questions about this and, you know, he wants answers. And since then it's funny when we're out, yeah, and near an establishment he'll say, see that thing over there on the right, that's the backflow preventer. And it's very interesting to me 'cause I never noticed that they were there anywhere. So when you're out driving around like when you go to McDonald's you'll see this collection of pipes outside and they're kind of in a structure and they're there. And I've seen them very tiny and I've seen them huge depending on what kind of a building you're looking at. I don't know what the County Building one looks like, maybe we should go take a look if you have time, Members, you might want to go take a look and see what we're talking about. You think it's out here? So anyway, it is, you know, noticeable, if it's there you can see it and that's the difference between having the backflow preventer, which is above ground that you can go take a look at because the big discussion in our house was about the double check valves and why do we need this in addition to that. So I really appreciate the clarification today. I don't see any more questions from the Members, but Water Department, anything else you'd like to add?

MR. TAYLOR: I just want to thank the Council for, the Committee for getting into the details on this. I realize this isn't the usual thing for Council getting into plumbing details. This is the kind of thing, just so you know though, I know we spend a lot of time on issues the public is concerned about, Upcountry water list or pot holes or these things people live every day. When we go to conferences, when we read our magazines what we see is every time there's some sort of disaster in some community that don't even make the news, the first thing in my mind is could it happen here and would I feel responsible or is that just something happens that you can't plan for and this is the

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

kind of thing that is not a big deal until it's a really big deal. This is the kind of thing that I sort of lose sleep at night is like am I doing a good enough job. Am I just letting it go 'cause we've always gone? I appreciate the Council working with us on this because although it's, you know, there's this up and down history of using these things, and although I wish I could wave a magic wand and just have one everywhere tomorrow as long as we're moving forward at least I can sleep at night and I think we're doing the right thing. So I hope you will see that this isn't just something we're making up. This is something that our industry is really concerned about, and we're not just trying to cause trouble so I really appreciate your help with this.

CHAIR BAISA: Members, if there is no further discussion, I'm prepared to make my recommendation.

COUNCILMEMBERS: Recommendation.

CHAIR BAISA: It's to defer, with no objections.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: MPV)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR BAISA: Okay. And I want to tell you that we...I want to thank all of you for agreeing to attend a special meeting on November 22nd at 1:30, which is unusual. We usually do morning, so this is an afternoon meeting. And we will try to have this ready so that we can post our changes and along with the agenda. If we can't make that schedule, then we'll do it right after that. But again, I want to thank all of you for your input and I want to thank the public for giving us the opportunity and coming to testify so that we can make this the best bill it can be if we finally pass it out of here. Any...Mr. Taylor, is there a concern before I close this meeting? Go ahead.

MR. TAYLOR: No. I was just asking if the meeting was going to be next Tuesday.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: The meeting of the 16th of November is canceled, and so we've rescheduled for November 22nd.

MR. TAYLOR: Oh, November 22nd.

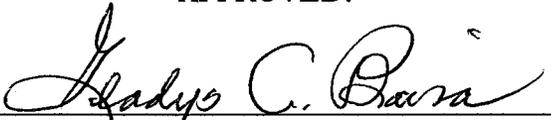
WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

CHAIR BAISA: Yeah, November 22nd. Okay? All right. Members, without any further business to take care of today, we've completed our agenda. I am going to thank everyone and this meeting will be adjourned. . . .(gavel). . .

ADJOURN: 10:25 a.m.

APPROVED:



GLADYS C. BAISA, CHAIR
Water Resources Committee

wr:min:161019:mb

Transcribed by: Michelle Balala

WATER RESOURCES COMMITTEE
Council of the County of Maui

October 19, 2016

CERTIFICATE

I, Michelle Balala, 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 10th day of November, 2016, in Makawao, Hawaii

Michelle Balala

Michelle Balala