

**WATER RESOURCES COMMITTEE**  
**Council of the County of Maui**

**M I N U T E S**

**Council Chamber**

**July 18, 2018**

**CONVENE:** 9:06 a.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Elle Cochran, Vice-Chair  
Councilmember Robert Carroll  
Councilmember Stacy Crivello  
Councilmember Kelly T. King  
Councilmember Yuki Lei K. Sugimura

**EXCUSED:** Councilmember Alika Atay, Chair  
Councilmember Mike White

**STAFF:** James Krueger, Legislative Analyst  
Stacey Vinoray, 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.:** Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel  
Gladys Baisa, Acting Director, Department of Water Supply  
Wendy Taomoto, Engineering Program Manager, Department of Water Supply  
Jase Miyabuchi, Civil Engineer VI, Department of Water Supply  
Robert C. De Robles, Planner VI, Department of Water Supply  
(seated in gallery)

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

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VICE-CHAIR COCHRAN: . . . (*gavel*) . . . Aloha, will the Water Resources Committee please come to order? I am Elle Cochran, the Chair of the meeting today in place of Alika Atay. And with us at the meeting I have Vice-Chair of the Council, Mr. Bob Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

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VICE-CHAIR COCHRAN: Good morning. Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

VICE-CHAIR COCHRAN: Aloha. And Ms. Kelly King.

COUNCILMEMBER KING: Good morning, aloha, Chair.

VICE-CHAIR COCHRAN: Good morning. And excused is Chair White and I believe Ms. Sugimura will be joining us shortly. From Administration looks like we have Director of Water Supply, Ms. Gladys Baisa.

MS. BAISA: Good morning, Chair.

VICE-CHAIR COCHRAN: Good morning. And Ms. Wendy Taomoto, who is Engineering Program Manager for Department of Water Supply. And I see Jase in the background there.

MR. MIYABUCHI: Good morning, morning, Chair.

VICE-CHAIR COCHRAN: Aloha. I'm sorry, what's the last name?

MR. MIYABUCHI: Miyabuchi.

VICE-CHAIR COCHRAN: Miyabuchi, thank you. And, also Jennifer Oana of Corporation Counsel.

MS. OANA: Good morning, Chair.

VICE-CHAIR COCHRAN: From our Staff it looks like Ms. Stacey Vinoray is the Secretary, and Mr. James Krueger, Legislative Analyst. Over on, in Hana, will be Dawn Lono, Lanai, Ms. Fernandez, and on Molokai, Ms. Alcon, and Ms. Sugimura, thank you for joining us this morning.

COUNCILMEMBER SUGIMURA: Good morning, Chair.

VICE-CHAIR COCHRAN: Good morning. We do have one item on today's agenda. It is WR-11, Reimbursement for Subdivision Water Main Extension. And at this time, without objections I will open the floor for public testimony. If there are anybody [sic], Mr. Krueger? No? All right. So, seeing no one here and let me check in with the outside offices. Ms. Lono in Hana, do you have any testifiers?

MS. LONO: Good morning, Chair, this is Dawn Lono at the Hana Office and there is no one waiting to testify.

VICE-CHAIR COCHRAN: Thank you, Ms. Lono. Over on Lanai, Ms. Fernandez, anyone there to testify?

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MS. FERNANDEZ: Good morning, Chair, this is Denise Fernandez on Lanai and there is no one waiting to testify.

VICE-CHAIR COCHRAN: Thank you, Ms. Fernandez. Molokai, Ms. Alcon, anyone to testify?

MS. ALCON: Good morning, Chair, this is Ella Alcon on Molokai and there is no one here waiting to testify.

VICE-CHAIR COCHRAN: Thank you, ladies. All right, Members, you heard the ladies and the gallery has no one signed up. Without objections I shall now close public testimony.

COUNCILMEMBER KING: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

**WR-11 REIMBURSEMENT FOR SUBDIVISION WATER MAIN EXTENSION (CC 17-242)**

VICE-CHAIR COCHRAN: Thank you very much. All right then we shall jump into our one item WR-11, Reimbursement for Subdivision Water Main Extension. And the...let's see this is County Communication 17-242, from Director of Water Supply, transmitting proposed bill entitled, "A Bill for an Ordinance Amending Section 14.05.050, Maui County Code, Relating to Reimbursement for Subdivision Water Main Extension." And the purpose of this bill is to establish maximum reimbursement amounts for subdivision water main extensions, and the bill also defines the term "large quantities of water" as it applies to the conditions under which reimbursement for offsite water mains may be approved. So, Members, let's see...this matter was briefly discussed during our Fiscal Year 2019 budget deliberations, \$500,000 was appropriated for the Department for refunds for mainline expenses in the Fiscal Year 2019 Budget. The schedule of estimated payments in this FY 2019 was distributed to the Committee Chair at the Committee's May 16, 2018 meeting and is available on Granicus. The Department also provided us at that meeting a handout with the total reimbursement amount the County has paid each year from 2008 through 2017. This file is labeled in Granicus as a Correspondence from the Department dated May 16, 2018. So, with that opening background I'll turn the floor over to Director Ms. Baisa for any opening comments at this time.

MS. BAISA: Thank you very much...Thank you very much, Chair, and good morning, Members of the Committee. Today we're here, of course, to discuss this reimbursement for subdivision water main extension bill. This bill has been around for a while and we've had several conversations about it. And today it's my understanding that we're here to discuss the Department's recommendations. We have amended, we are proposing amendments to what was before you and of course, the purpose of this is you heard the Chair's introductory remarks. And she mentioned that in the budget we have a \$500,000 line item to take care of these reimbursements. The reason why this bill came up in the first place is there is great concern that we need better budgetary control over what the Department might be asked to reimburse. And the idea was, and this was by

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the former Director, was that we set some kind of maximum so that, or possibly, we could even consider not doing this at all. But we wanted to set some kind of parameters on what the Department can reimburse for budgetary control. If we don't and we have \$500,000, and a developer came in and wanted a million or several million, we would be in big trouble and we'd have to, of course, come and hope for a budget amendment. By setting guidelines as to what we reasonably feel that the Department can reimburse and fit into the budget we feel that we'll have better control of this and it'll be very clear, and there will be no expectation on the part of the individuals or developers as to what they can be reimbursed. It'll be clearly outlined in the law what the rules and what you can expect to get. So, we're hoping that we can discuss with you today our recommendations and we hope that, you know, you will, you know, let's really tear this apart and come up with good recommendations so we have good lines going, good rules to follow going forward. Miss Taomoto, our Engineering Program Manager, has spent a whole lot of time on this. She was with it from the very beginning and she's done the research on what we've paid and looked at what we might pay and has, she's gonna go through the proposed amendments that we have. And you have copies of the ordinance with the proposed amendments that have been looked at and agreed to by Corp. Counsel. Miss Oana has worked very hard on the amendments. We also gave you the definition from the Administrative Rules that talk about what is a large quantity of water and so, you have the information that you might need in order to, you know, get reference to what we're talking about today. So, Chair, without further ado, I'd like to turn it over to Ms. Taomoto.

VICE-CHAIR COCHRAN: Sure. Thank you very much for your comments. Miss Taomoto.

MS. TAOMOTO: Good morning, Chair and Members.

VICE-CHAIR COCHRAN: Good morning.

MS. TAOMOTO: If you...we passed out four documents if...do you want me to walk through the changes?

VICE-CHAIR COCHRAN: Yes. Yes, please.

MS. TAOMOTO: Okay, so, this is the one that has ordinance number and a line blank. A bill for an ordinance...if you...hard copy, yeah it's not on your Granicus. It would be a hard copy we distributed. So, this 14.05.050 is in our current County Code and what we're proposing is some changes as was initiated by former Director Taylor. The first change that we are making is to Item C. And we had discussed this in our previous Committee meeting, but, I did add additional language with Corporation Counsel to clarify that when we do reimburse for water main extension we do not include in that cost the cost of service laterals, the fire hydrant assembly, the fire hydrant tees and laterals. So, we're just talking about the main line which is the main pipe including the valves that are on that main line and any fittings.

COUNCILMEMBER KING: Chair, can I?

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VICE-CHAIR COCHRAN: Yes, go ahead, Ms. King.

COUNCILMEMBER KING: So, I just wanted to clarify that in the past we did cover those things?

MS. TAOMOTO: No. So, --

COUNCILMEMBER KING: Okay.

MS. TAOMOTO: --we're, sorry, we're clarifying that in the past we've never, so we're making it clear --

COUNCILMEMBER KING: Okay.

MS. TAOMOTO: --to the public and anybody who's seeking this reimbursement that we will not cover as we have not done so in the past.

COUNCILMEMBER KING: So, the I guess the, just the idea is that we've never covered them we're just codifying that.

MS. TAOMOTO: Yes.

COUNCILMEMBER KING: Okay.

VICE-CHAIR COCHRAN: Okay, yes.

MS. BAISA: . . . *(inaudible)* . . .

VICE-CHAIR COCHRAN: Oh yes, Ms. Baisa.

MS. BAISA: Actually, the intent of including that is clarification. You know, what happens many times is we make a rule and we don't put enough information in it. And when the situation comes up then there's oh, what is okay and what is not okay, so this clarifies it. But it is past practice. Thank you, Chair.

VICE-CHAIR COCHRAN: Thank you. Ms. King, was that all?

COUNCILMEMBER KING: Yeah that's, I just wanted to make sure we that weren't changing anything we're just codifying it.

VICE-CHAIR COCHRAN: Okay.

MS. TAOMOTO: Yes, just codifying our past practice.

VICE-CHAIR COCHRAN: Okay. Ms. Taomoto.

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MS. TAOMOTO: Okay and the next...at the end of that paragraph there is a "shall not exceed 100,000." For those Members that were present at our previous Council Committee meeting we had that original draft bill at 25,000. But after looking at the past reimbursements on average over the past six years the average is 83,000 and considering the cost escalation as this bill doesn't have a sunset date, we're proposing that we're comfortable with a 100,000 for maximum reimbursement. Okay, so, any questions on that?

VICE-CHAIR COCHRAN: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, do you recommend based upon what you just said about a sunset date, do you recommend we do add a sunset date so that this amount can be looked at again?

MS. TAOMOTO: No, at this time we do not recommend a sunset date. We will adjust and propose as we, amendments.

COUNCILMEMBER SUGIMURA: Okay, so just amend the amount. Thank you.

VICE-CHAIR COCHRAN: Thank you.

MS. TAOMOTO: Okay, the next sentence is to address what we, Director Baisa had mentioned about affordable housing. And so, this is consistent with our previous discussion also, where we had recommended a consideration of the Council and Administration to incentivize affordable housing. So, it reads, "For subdivisions consisting of 100 percent affordable housing units as defined in section 2.86.140, Maui County Code, the Department shall reimburse a subdivider fifty percent of the cost of a water main extension." And deleting, oh let me get into that later. So, what this does is in the current bill as it currently stands any subdivision qualifies for the fifty percent reimbursement with no cap limit. So, these two paragraphs clarifies, or...not clarifies, actually, creates new law where there is a cap of a 100,000 for all subdivisions that qualify except we have for affordable housing they can get the full maximum fifty percent reimbursement regardless of the cost or amount of the reimbursement.

COUNCILMEMBER KING: Okay, so, Chair?

VICE-CHAIR COCHRAN: Go ahead, Ms. King.

COUNCILMEMBER KING: Thank you. So, do we need to clarify in that second sentence that the fifty percent for the affordable housing, for the 100 percent affordable housing is not subject to the cap?

MS. TAOMOTO: Jen?

VICE-CHAIR COCHRAN: Yes, go ahead Ms...Oh, Ms. Baisa? Oh, Ms. Oana?

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COUNCILMEMBER KING: Cause where the sentence before puts a cap on it. Now you're saying it's fifty percent, but, I'm assuming that fifty percent is not subject to the cap.

MS. OANA: If you wanted to add that that's fine but I think it's fine the way it is because the previous sentence says fifty percent and then it has a cap, and for affordable housing it just says fifty percent period. So, if you wanted to be clarified a little bit more to put that in we can, but, I think it's, I think it should be fine.

COUNCILMEMBER KING: Okay but it does say that the Department shall reimburse the subdivider fifty percent of the cost of a water main extension and it goes through all the things it excludes and shall not exceed, for any subdivision main extension shall not exceed \$100,000...maximum reimbursement to the subdivider for any subdivision main extension shall not exceed – I don't know what that word "of" is doing there. But, shall not exceed 100,000...and then do we need to put "except for subdivisions of 100 percent affordable housing" just to clarify.

VICE-CHAIR COCHRAN: Yes.

COUNCILMEMBER KING: I mean if we're clarifying we should clarify.

VICE-CHAIR COCHRAN: Baisa, or Ms. Oana.

MS. TAOMOTO: Oh, the mic, Jen.

MS. OANA: . . . *(Inaudible)* . . .

VICE-CHAIR COCHRAN: Are you on the microphone? Sorry, Ms. Oana, the microphone.

MS. OANA: So, I'm thinking after the 100,000 instead of the period we put a comma provided however that –

COUNCILMEMBER KING: Okay.

MS. OANA: -for subdivisions. . . *(inaudible)* . . .

COUNCILMEMBER KING: Okay, yeah, I think that would clarify.

MS. BAISA: Thank you.

COUNCILMEMBER KING: And just take that word of out before that 100,000.

MS. TAOMOTO: Chair?

VICE-CHAIR COCHRAN: Yes?

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MS. BAISA: Chair, I really appreciate Ms. King's suggestion. You know, the idea is to get this as clear as we can so that in the future there's no concern about what the Council meant.

COUNCILMEMBER KING: Right, thank you.

MS. BAISA: So, thank you very much.

VICE-CHAIR COCHRAN: Okay, very good. Yes. Ms. Taomoto, concur?

MS. TAOMOTO: Yep, concur. I will continue.

VICE-CHAIR COCHRAN: Yes.

MS. TAOMOTO: The next deletion is as we also discussed or presented in the previous committee meeting where we are proposing a deletion of the 75 percent reimbursement for family, what we call family subdivisions. So if you look at the bracketed, that is, our proposal is to delete the 75 percent for family subdivisions and we're capturing that in the 50 percent, maximum 100,000 which is the previous change we're proposing.

VICE-CHAIR COCHRAN: Okay, and so, the 75 percent, I was trying to find the list of what's been expended out thus far. It's, I think it's been well under, yeah? It's been more like the 20 to 30 thousand. Time—oh, I know. Trying to find where my list is.

MS. TAOMOTO: Chair?

VICE-CHAIR COCHRAN: Yeah?

MS. TAOMOTO: I did distribute something at the...looks like a May 16<sup>th</sup> meeting. The reimbursements I distributed went back from 2008 to 2017, and those reimbursements...

VICE-CHAIR COCHRAN: Oh, yes, I see.

MS. TAOMOTO: Okay, she found it.

VICE-CHAIR COCHRAN: Yeah, in Granicus. I have it in Granicus, thank you.

COUNCILMEMBER SUGIMURA: Can you repeat that, in Granicus it's May?

MS. TAOMOTO: May 16.

VICE-CHAIR COCHRAN: So, okay, thank you.

COUNCILMEMBER KING: Chair?



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VICE-CHAIR COCHRAN: And, so...Ms. Taomoto, this list I'm looking at are all these family subdivision...

MS. TAOMOTO: No, based on –

VICE-CHAIR COCHRAN: ...reimbursements? Sorry.

MS. TAOMOTO: Based on our...we had to go back yeah to 2008 and find the records that we could. We are only looking at two family subdivisions back that far. And the problem as we had disclosed to you folks is that the family subdivision allows the subdivider the use of the word "family" and transfer of the property to an immediate family member under these...under the definition here in the current law, occurs when we or right prior when we do the reimbursement. What we cannot prevent is then that family member, that child or uncle, what immediate family member from then selling it and putting it on the market which undermines the intent of this is to allow it to remain a family. Based on the staff and I's recollection of all the subdivisions we've handled, there's only been a, like I said, a couple from 2008 and we cannot, there's no assurance we don't have a "run with the land" that you can't sell, you know, to market and it has to remain in the family. So rather than get into that and there's only like two subdivisions that we know of, we are proposing to delete that and capture that reimbursement in the change we're doing for either incentivize them to do affordable housing or reimburse them up to 100,000...fifty percent up to a 100,000, which is our proposed change. And, in exchange, you know, use our moneys better towards affordable housing. Save our money more towards affordable housing.

COUNCILMEMBER SUGIMURA: . . . *(inaudible)* . . .

VICE-CHAIR COCHRAN: Ms. Sugimura? Kelly, did you have?

COUNCILMEMBER KING: Well, I was just going to reiterate that because I remember talking about that in previous Committee meetings. I was just gonna reiterate that the reason why we were taking that out.

VICE-CHAIR COCHRAN: Okay.

COUNCILMEMBER KING: Which she just did.

VICE-CHAIR COCHRAN: Okay. Okay, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, has this been vetted with the Housing and Human Concerns if there's implications with housing, for families?

MS. TAOMOTO: The 100 percent affordable housing clause? Briefly, but it's, we are agreeing to reimburse hundreds so they don't have any quarrel with, I mean, quarrel with that because we are actually incentivizing affordable housing. So they support it I would say.

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COUNCILMEMBER SUGIMURA: I was just thing about selling, you know. The...

MS. TAOMOTO: The way the current law is structured and we can't prevent a family member who receives it to qualify for the 75 percent from selling it after they receive it. So, I, we felt strongly, the staff and I that we're still providing a fifty percent reimbursement but it's just capped at 100,000 for all subdivisions other than affordable housing. Thank you.

VICE-CHAIR COCHRAN: Okay, yes, Ms. Baisa.

MS. BAISA: I share the Members' concerns about doing anything with family, you know, we don't wanna hurt our families. But we also wanna protect the taxpayers and we are so concerned right now, all of us, about affordable housing, that we want to give the advantage to affordable housing, 100 percent affordable housing. We want to encourage people to do that and this is an encouragement by getting a full reimbursement. So, you know, we have limited dollars. So, we gotta figure out how we can we use them best. And that's what we're trying to recommend. And, you know, we are very open to the Council's recommendations, you're the decision makers, you're gonna decide. But our Department's recommendation is let's take care of the affordable housing so we encourage it. Thank you.

VICE-CHAIR COCHRAN: Thank you, Ms. Baisa. Okay. Ms. Taomoto.

MS. TAOMOTO: Okay, moving on to the next page under Item 3. We have a deletion and that is following, continuing on with the conversation of family. That just is housekeeping if we are all in agreement with deleting the...family subdivision clause that that would also be deleted to clean up this bill. Okay, Item 4, it's just housekeeping. We felt it was unnecessary to say off-site water main or because it's a water main extension and it's defined elsewhere. The...I'll read the paragraph as we propose it. Item Four, the Department shall make the final determination as to the cost of main extension installed by the subdivider and reimbursement shall be based upon the final cost as approved by the Department less any reimbursement made under 14.05.040. If the estimated construction cost differs from the final cost, the subdivider shall enter into an amendment agreement based on the final cost approved by the department before is made. This is housekeeping again for to account for past practices where if you come into our Department with construction plans, we go through a process of approving the plans. At some point at the end of the day we approve the plans and those plans, approved plans, come in with an estimated construction cost. At the time the plans are approved. The Department doesn't have control of when they're going to go into construction. So sometimes it takes a year sometimes longer and requires amended plans, approval. Nonetheless, once construction is completed with all the field changes and adjustments necessary to the plans, we get a final cost list affidavit which basically is a, they certify that this is the final cost of the actual construction items. That is what we base the reimbursement agreement on, not the estimated costs because that estimated costs and the plans don't account for a few conditions that may occur, unknown few conditions. So, all we're doing is like the other housekeeping items, we're

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just clarifying what our past practice is to make it clear how we're gonna handle the reimbursement agreement. Any questions?

VICE-CHAIR COCHRAN: Everyone good? Okay.

MS. TAOMOTO: We're moving on to the next revision which is item D, where we inserted a second sentence. Large quantity of waters shall mean...Large quantities of water as defined in section 16.201-03 of Title 16, Chapter 201 County Administrative Rules. As you guys know, we passed Administrative Rules on January 29, and because these current rules referred to large quantity of waters we just wanted to make it clear that the definition of large quantities of water that we're basing...is based on the definition we provided, is provided in the Administrative Rules that was just passed. Just a clarification. And we did pass out a single sheet and a copy of our Admin. Rules for your reference and ease. And it gives you the large quantity of water definition. Any questions?

VICE-CHAIR COCHRAN: No? Everyone have that single sheet which defines large quantities of water?

MS. TAOMOTO: There was a single sheet that says, and then – Okay.

COUNCILMEMBER KING: So, Chair, just quickly –

VICE-CHAIR COCHRAN: Yes, Ms. King.

COUNCILMEMBER KING: --Thank you. So, just quickly. Is there anything new or different in this definition than what we've been, how we've been applying that, it's just codifying the definition?

MS. TAOMOTO: No, Ms. King. This definition is just to reference that making sure that in the Admin. Rules what reservations water service and these rules will use the same definition.

COUNCILMEMBER KING: Okay, but this is a new insertion?

MS. TAOMOTO: In this rule to clarify that the definition of large quantity will be the definition as stated in the Admin Rules.

COUNCILMEMBER KING: Oh, okay, so, it was just to identify where that definition lives.

MS. TAOMOTO: Yes.

COUNCILMEMBER KING: Okay.

MS. TAOMOTO: Okay.

COUNCILMEMBER KING: Thank you.

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VICE-CHAIR COCHRAN: Any more questions?

MS. TAOMOTO: Thank you.

VICE-CHAIR COCHRAN: Okay, good.

MS. TAOMOTO: And, the last page of our proposed bill...wait, I forgot one, hold on. Sorry, I didn't see the little bracket. Item F is a deletion. We're deleting reimbursement shall not be made to a subdivider for water main extensions installed to a subdivision in areas where an agreement for reimbursement for water main extension already exist. To tell you the truth, we don't really know when we would apply this and we are not familiar of when this has been applied. It's a little bit confusing to the staff to include this. So we, in discussion with Corporation Counsel, we couldn't come up with a reason why we would need this paragraph in there. And so, we're proposing to delete it. It just makes it clearer because if you read it, it says that reimbursement shall not be made to a subdivider for a main extensions [sic] installed to a subdivision in "areas" where an agreement for reimbursement for water main extension already exist. "Areas" could be like if one person got it Upcountry nobody else can get it. So it's really...and we have no, we see no reason why we need to clarify this any further so we're recommending it just be deleted. We feel that with that deletion the admin, the rule is clear without that deletion. It's less clear with leaving that in. Thank you.

VICE-CHAIR COCHRAN: Okay.

MS. TAOMOTO: Question, okay?

VICE-CHAR COCHRAN: Ms. King.

COUNCILMEMBER KING: I just have a question. Thank you. So, if we...so, if there was a subdivision that got say a grant or something to cover that water main extension, would we still be paying for half of it? Are we gonna – is there ever a, you know, a situation where we would be doubling up on somebody already having that reimbursement or funds to cover that?

VICE-CHAIR COCHRAN: Miss?

COUNCILMEMBER KING: And I understand the whole thing about areas, but, I mean specific projects.

MS. TAOMOTO: So, you're asking if a applicant or owner of a subdivision land that's getting a subdivision, processing a subdivision, receives funding from outside of their personal funds through a grant?

COUNCILMEMBER KING: Outside, yeah, outside of their funds or you know, we...some of the affordable housing comes to us with all these other different funding and credits from the State and Federal level. And, so, if that was already covered, that water main

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extension was already covered, would we still be reimbursing for that under, if we take that out?

MS. TAOMOTO: Our intent is to not reimburse for that.

COUNCILMEMBER KING: Right.

MS. TAOMOTO: Because it would be getting double funding for the applicants. I, I'm –

COUNCILMEMBER KING: Right. But, I mean, do we need, maybe we just need to just change that sentence to say, instead of saying “areas” we'd say for subdivisions where it's already been covered.

MS. TAOMOTO: Funding through...

MS. OANA: Okay, but I'm not sure if that will take care of a situation where we were talking about yesterday where a subdivision is required to put in like a six-inch? But, then later, ten years later we needed eight-inch. And so, the next subdivider who needs the water meter will be putting in an eight-inch and we still wanna reimburse them. Is that?

VICE-CHAIR COCHRAN: Yes, Ms. Baisa?

MS. BAISA: Chair, my take on this is that we are making, wanting to make sure nobody gets paid twice. And, I think we could put a sentence in here that just says that. We don't wanna do, pay twice and we gotta be sure that if you reimburse we not going reimburse you again. Doesn't make any sense if we're trying to use our money correctly. So, I don't have any problem if Corp. Counsel can come up with something to add like that that'll be good.

COUNCILMEMBER KING: Yeah, or even just taking out the two words “in areas” and just says for a main extension installed to the subdivision where an agreement for reimbursement for water main extension already exists.

VICE-CHAIR COCHRAN: Ms. Taomoto, you had a question?

MS. TAOMOTO: I think what we need to do is absorb what you've said and work with Corp. Counsel. Director Baisa and I will discuss this with Corp. Counsel.

COUNCILMEMBER KING: Okay.

MS. TAOMOTO: And propose a language.

COUNCILMEMBER KING: Okay.

MS. BAISA: Thank you very much for the suggestion. I think it's a good clarifying thing, thank you.

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VICE-CHAIR COCHRAN: Okay, thank you very much.

MS. TAOMOTO: Okay.

VICE-CHAIR COCHRAN: So, that's your presentation on this or?

MS. TAOMOTO: No, one more change.

MS. BAISA: One more, almost done.

VICE-CHAIR COCHRAN: Okay.

MS. TAOMOTO: The final revision is in Section 3, which is not...

VICE-CHAIR COCHRAN: Where are we?

MS. TAOMOTO: -Jen, it's not bracketed. But, I'm just gonna...Oh, oh I see. Okay, so because it's new, I'm just going to read Section 3. So, we revised Section 3 and it's a new...So, this ordinance shall take effect upon its approval provided, however, that 1) existing agreements for reimbursement entered into between a subdivider and the Department prior to the effective date of this ordinance shall remain valid and may be processed under the Section 14.05.050, Maui County Code, in effect prior to the enactment of this ordinance; and 2) any parcels of real property with a current water reservation approved by the Department prior to the effective date of this ordinance pursuant to Chapter 14.07, Maui County Code, may be processed under the Section 14.05.050, Maui County Code, in effect prior to the enactment of this ordinance; and 3) any subdivision with current construction plans approved by the Department prior to the effective date of this ordinance pursuant to Chapter 14.05, Maui County Code, may be processed under the Section 14.05.050, Maui County Code, in effect prior to the enactment of this ordinance. So, what I just read and I'm reading it because it's not on the Council website for the public. But, this is to take care of the grandfathering of subdivisions. The first one that I read is obvious. We want to make sure this revised bill doesn't affect existing agreements in place, yeah? That already receive an, already have an executed agreement with us for the 50 percent or 75 percent. The second item which relates to water meter reservations...so, what we're trying to do is make sure that when we have, as Staff, conversations with applicants applying for subdivision and in that course of conversation they ask us about the reimbursement, currently they're qualified for the 50 percent and 75 for family. Some of these applicants, as we know, have proceeded to apply for water meter reservation and made that deposit for a reservation on the premise that they would get the reimbursement. So, what we're saying is that once an applicant pays the deposit to make that water meter reservation the Staff feels that we should honor the existing County Code because that is the premise that they made the reservation and they're proceeding. The third item where it refers to construction plan approval similar to water meter reservations, if we're dealing with an applicant and in the course of that approval we're having a conversation about reimbursements and we say currently, you are entitled to that reimbursement under the current language. But

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we, you know, right now we're talking to applicants while proposed changes. But, a lot of these applicants don't take reservations and they proceed directly into construction and with our approved plans. So, our feeling is once the plans are approved by the Director we gave an assurance based on the existing law that we would give the reimbursement. And they proceeded to hire a contractor, start construction. So, we feel it's unfair that if they're in construction or intend to start based on construction plan approval, that we change the law and they don't get the benefit of the current law. Any questions?

COUNCILMEMBER SUGIMURA: Chair?

VICE-CHAIR COCHRAN: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, you're basically are covering all the different scenarios that you folks have experienced and you want to make sure that it's fair. So, on the third example, do you actually give...is there something document, well I guess the approved plans that's what's documentation. Okay.

MS. TAOMOTO: Yes, the plans are signed by the Director, Deputy or myself in some situations. And based on that plans and that date we're going to use the date of the approved plans. And I just wanna clarify that the word "current" yeah, is being used because a construction plan approval under our County Code is only valid for one year from the date of the signature. It is the obligation of the subdivider to come in and get re-approved, re-approval process and then if that is the case and they come in and their plans are expired they would be subject to the current rules not the, the current rules once this is adopted not the 50 and 75.

COUNCILMEMBER SUGIMURA: Chair, if I could again?

VICE-CHAIR COCHRAN: Yes.

COUNCILMEMBER SUGIMURA: So, then do you need to also put this so that that's clear? So the applicant would understand this. Or is that understood somewhere else like in your rules or?

MS. TAOMOTO: About the one-year construction plan approval?

COUNCILMEMBER SUGIMURA: Yeah, one-year construction?

MS. TAOMOTO: That is covered in other parts of our rule where a construction plan approval is valid for one year.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

MS. TAOMOTO: And that is the reason for the word "current" construction plans cause it's, the approval of the plans has to be current and not expired. Thank you.

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VICE-CHAIR COCHRAN: Okay, and Ms. Taomoto do we have a list of like, you know, this is sort of a grandfathering of sorts as you mentioned. So is there an actual list to see who they are, where they are, what they are, at all?

MS. TAOMOTO: Chair, it would be difficult for us to put together a list.

VICE-CHAIR COCHRAN: Okay. It'll just be a case by case thing when they come in.

MS. TAOMOTO: When they come in we would look at the conditions of grandfathering and if they qualify we would inform them. If they want...and another clarification, these applicants, if they're seeking reimbursement are not going to initiate construction without the reimbursement agreement executed. So, you know, if they're gonna starting construction without the reimbursement agreement, the fact that they're in construction without an agreement they don't qualify. So they have to have an executed agreement with us prior to construction.

VICE-CHAIR COCHRAN: Okay. Yes, Ms. King.

COUNCILMEMBER KING: Chair, yeah, thank you. I just wanted to kind of follow-up on the idea of a list. I think it's better if we don't see a list when we're passing this because it should not be passed based on who's on that list and that would give the, you know, the impression that we're, they're potential favoritism. So, I think of this as a good bill. We should pass it regardless of who's on that list or not on that list.

VICE-CHAIR COCHRAN: Yeah, okay. Yeah, I didn't want to kind of right now but I just thought it'd be interesting to see what, who all was there, I mean, what's the scope and quantity of people.

COUNCILMEMBER KING: I mean if you just give us a quantity maybe, but I just don't think...yeah.

VICE-CHAIR COCHRAN: Yeah, that's what I was more looking for. I don't need names per se, actually, I just wanted to know kind of, you know, amounts we're looking for down the road that we're grandfathering in, I guess, is my thought.

MS. TAOMOTO: I understand the question. But, honestly, we, in our office we don't have this list and it would...unless it's really necessary I would request that it, yeah, it would take up a lot of Staff time to go through all the files to find...and like I said we don't have control over when these people get into construction. So, some of them might have submitted plans, we don't have any control over that. And so, to compile a list would be very time-consuming for us and –

VICE-CHAIR COCHRAN: Okay.

MS. TAOMOTO: -we don't really have that kind of time right now, short-staffed, thank you.



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VICE-CHAIR COCHRAN: All right, okay, thank you. And that concludes this, the changes here? Alrighty. Any other questions or comments for this? Alrighty, and was there anything you handed out, we have other handouts that you had given us. And are those just the references to the ordinances.

MS. TAOMOTO: Yes, that's just for your reference.

UNIDENTIFIED SPEAKER: Admin. Rules.

VICE-CHAIR COCHRAN: Okay, and let's see...so, Mr. Atay had some questions and let's make sure I ask them on his behalf. He wanted to know the process that would qualify a subdivision for reimbursement. And I think we went through that. Reimbursements are currently paid out in five equal annual installments. Does the Department have a recommendation on whether this should be adjusted?

MS. BAISA: We have no recommendation.

VICE-CHAIR COCHRAN: Okay, and I guess the five equal – is it just easier done this way or is there a formula?

MS. BAISA: I think for budgeting purposes it works for us.

VICE-CHAIR COCHRAN: Okay, and, let's see, he wanted to know what on average how many agreements are entered annually? We have that list, that past list.

MS. BAISA: We have the list that we can share with him.

VICE-CHAIR COCHRAN: Average amount of reimbursement? Which is also on that list. The dollar range is on that list. And, let's see...I think most of these...The proposed bill sets a maximum reimbursement of \$25,000 for normal subdivisions, and a maximum of \$35,000 for family subdivisions, which that's to –

MS. BAISA: Of course, we had recommended a change, yeah.

VICE-CHAIR COCHRAN: -right. And, I guess, he's asking if there's any recommendations to adjustments to the maximums, but, there's, yeah.

UNIDENTIFIED SPEAKER: We did what she did.

VICE-CHAIR COCHRAN: Yeah, yeah. And...let's see...adding affordable housing which did. Very good. I think you read his mind and you . . . *(laughs)*. . . addressed every question here. Definition of large quantities of water, and, yeah, so, the whole thing is checked off. Thank you.

MS. BAISA: We work closely together, so, no surprises.

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VICE-CHAIR COCHRAN: Yeah, very good. Obviously, yeah, you folks had been in discussion to vet this out. And, I guess, at this time is there any further need for discussion on the issue? I just wanna thank everyone here, the Department and obviously working well with Chair Atay on the matter. And I guess it looks like a deferral, though, at this time. He would like to defer the matter. And,

**ACTION: DEFER.**

VICE-CHAIR COCHRAN: I guess we had a little bit of clarification on that last Section 3, I think it was. Is it, I'm sorry not Section 3 – F, Item F, to work out with Department and Corporation Counsel. So, with that Members, this meeting today, which I didn't give the date. It's Wednesday, July 18, and we started roughly, probably a few minutes after nine, 9:06 a.m. And we are now adjourned. . . *(gavel)* . . .

**ADJOURN: 9:45 a.m.**

APPROVED BY:



ELLE COCHRAN, Vice-Chair  
Water Resources Committee

wr:min:180718min

Transcribed by: Stacey Vinoray