

BOARD OF WATER SUPPLY  
COUNTY OF MAUI

REGULAR BOARD MEETING  
MINUTES OF FEBRUARY 18, 2021

The regular meeting of the Maui County Board of Water Supply was held virtually on BlueJeans, on Thursday, February 18, 2021.

I. CALL TO ORDER

The meeting was called to order by Chair Shay Chan Hodges at 1:32 p.m.

II. ROLL CALL

Members present: Shay Chan Hodges, Chair  
Zoli Milaskey, Vice Chair  
Norman Franco  
Nalani Kaninau  
Joseph Aquino  
Dean Frampton  
Antonette Eaton  
Buddy Nobriga  
Johanna Amorin

Staff present: Jeffrey Pearson, P.E., Director  
Keola Whittaker, Deputy Corporation Counsel  
Sherilyn Otsubo, Commission Support Clerk

Cablecast: Video conferenced via BlueJeans and viewable on AKAKU, Maui  
Community Media

III. APPROVAL OF MINUTES

Motion: Member Franco moved to approve the minutes of January 21, 2021.

Second: Member Aquino

Vote: The motion passed unanimously.

IV. TESTIMONY FROM THE PUBLIC

Dick Mayer appreciates the Executive Summary of the Wailuku Water Company and the recommendations that were included. One thing that is missing is the downside of not purchasing the system. If the County didn't purchase the system, what would be the implications to the County, water users and the various farmers who utilize the system now?

Member Amorin joined the meeting at 1:38 a.m.

V. UNFINISHED BUSINESS

**A. Update from Sandy Baz, Managing Director and/or Director Jeff Pearson, on the status of the Wailuku Water Company purchase.**

Director Pearson mentioned that Managing Director Baz was unable to attend the meeting and Mr. Baz stated that there were no updates to report.

Chair Chan Hodges reported that she put together a summary of everything that the Board has discussed starting from May 2020. She also created a draft executive summary which includes key findings and concerns and recommendations.

Member Franco would like to see an analysis which looks at the cost benefit ratio of the total purchase cost plus maintenance and how that relates to the number of people benefitting from the acquisition, as opposed to not purchasing the system and considering using those funds to support the community's water needs in another way. Then you will know if the County is truly making a wise purchase. Chair Chan Hodges noted that the recommendations include analyses of various costs and revenues, but doesn't include detailed analysis of the benefit.

Member Eaton stated that if this is such an important system and an important part of island life, why is the system so archaic and run down? The maintenance is going to cost as much as the purchase of the system. She shared her theory that the owners of the system knew that after the leases ran out, they would have to give the system, the water and the land back to the kingdom. That's why no improvements were made to the system.

Vice Chair Milaskey echoed Member Eaton's comments and also said that the longer the purchase is delayed, the more dilapidated the system is going to become.

Member Nobriga said that if the County purchases the system, it might cost hundreds of millions of dollars to operate because of the government's standards. It is common practice that government cost is always higher because it's the people's money and that is what is expected from the people it serves.

Member Kaninau mentioned that one of her fears is that an outside buyer comes in and they may not have the County's best interest at heart. This purchase is looking ahead to the future in order for Maui County to control their own water.

Member Amorin said that acquisition is a big plus for the County and its community.

Member Franco stated that the potential for a purchase goes beyond the water that is provided to the County. The thousands of acres that would be put into public

ownership outweighs the value of the water. Are we tied to the existing delivery system? Are there water resources within this area that is not tied to an archaic water system?

Director Pearson replied that he is not aware of other surface water delivery systems in the West Maui Mountains that pulls water from Na Wai Eha other than Wailuku Water Company's delivery system.

Member Frampton asked if there are other options for expanding available surface or groundwater in these areas?

Director Pearson said yes, there are additional sources and they're listed in the WUDP. There would be a huge transmission cost to get to those groundwater sources.

Member Aquino mentioned that as far as the maintenance, this is the time to look to the future in terms of technology and sustainability, such as solar powered pumping and battery storage systems that would benefit the County.

Member Franco made a motion to recommend that the County purchase the Wailuku Water Company water system with the conditions outlined in the summary under letter A.

Member Kaninau seconded the motion.

Member Eaton asked to add that the County hold community meetings in order to hear from the different stakeholders and to give them an opportunity to voice their concerns.

Chair Chan Hodges said that the second bullet point talks about a community engagement process, and asked Member Eaton if she would like to add a separate bullet point.

Vice Chair Milaskey's concern is that pushing a community engagement process could further delay the purchase.

Deputy Corporation Counsel Whittaker stated that the process for including Member Eaton's change to the recommendation would be to amend the motion to add Member Eaton's concern.

Member Eaton therefore withdrew her amendment.

The Board voted unanimously to approve the summary and executive summary with recommendation A and its bullet points and to submit them to the Mayor and County Council.

Chair Chan Hodges thanked the Board for all their hard work and said that this is a great demonstration of what the Board does to support the ongoing work of the County through presentations from the community and great questions by Board members. She also stated that since the Board has covered everything it can on this matter, the item will be taken off the agenda unless there are updates from the administration or the APT Committee in the future.

**B. Update from Councilmember Shane Sinenci, or representative, of the Agriculture and Public Trust Committee.**

Gina Young, Executive Assistant to Councilmember Sinenci, mentioned that Councilmember Sinenci was in a committee meeting so he couldn't attend. The APT Committee's main focus is getting the Water Use and Development Plan passed. Council Services will integrate the appendixes and the Council will probably have amendments and changes. The WUDP will then go back to the Board for its review. Ms. Young also mentioned that Councilmember Sinenci is also interested in the Board's discussion on water rates and rate structure.

**C. Discussion on the relationship between the Department of Hawaiian Homelands and the Department of Water Supply, including an update on the proposed bill entitled "A Bill for an Act Relating to the County Boards of Water Supply" and update from the Director of Water Supply regarding how DWS can support access to water by DHHL.**

Chair Chan Hodges stated that the bill didn't make sense for our water board so it got deferred during last month's meeting. Since then she spoke to DHHL's Jonathan Scheuer who said the bill has stalled at the Legislature and it's unlikely that it'll move forward. A next step would be to determine what the Department can do to support access to water by DHHL?

Director Pearson stated that the lines of communication need to be kept open. If not, there will be misunderstandings and misdirection. In the two years that the Director has been in this position, the department has worked closely and has a good rapport with DHHL's project manager who works on existing and future developments for DHHL. Director Pearson would like to wait and see what happens with all the bills that are currently in the Legislature before he makes further comments, but he can commit to the Department of Water Supply working with and supporting DHHL with their projects.

Chair Chan Hodges said that we will add this item to the priority list and in May the Director can give an update on what happened with the bills and how that impacts how we can improve access to water by DHHL.

**D. Discussion of water rates and rate structure.**

Chair Chan Hodges mentioned that she was asked to serve as a resource at the Budget, Finance, and Economic Development Committee meeting the day before

and she gave a summary of what the Board had been discussing over the last few months. The County Council seems interested in restructuring the rates and they are interested in receiving the Board's feedback.

Member Kaninau asked if the last rate increase was in July 2016.

Director Pearson said that he recalls that there was a 3% increase in FY 2020.

Mark Walker, Assistant Fiscal Officer, explained the water usage and revenue by various districts by tiers are similar from year to year. The 20 largest users only differ slightly from 2019 to 2020.

Holly Ho, Fiscal Officer, mentioned that the report on the Residential Rate-5/8" Meter only considers single family customers from the last two years. The consumption in Block 4 ranges from 5%-8% in Wailuku, Makawao, Lahaina, Molokai, and Hana. This is what the rate structure was set up to do when this rate structure was created.

Member Kaninau asked if there is a step by step process when considering water rate increases?

Director Pearson replied that the budget is evaluated within the administration of the Department based on the rate studies to determine if increases or decreases should be applied. Then it is presented to the Mayor's administration and then to the Council. If it was a large or overwhelming rate increase, then it may be brought to the public's attention. If there is a proposed change to the rate structure, a public meeting or hearing would likely occur.

Ms. Ho clarified that the rates and fees are set by ordinance once the budget is adopted. The 5/8" single family rate goes to the fourth tier based on consumption and the fourth tier is greater than 35,000 gallons. For the single-family block, 0-5,000 gallons is the first tier, 5,000-15,000 is the second tier. 15,000-35,000 gallons is the third tier and greater than 35,000 is the fourth tier. For the general consumers including the Grand Wailea, 0-5,000 gallons is the first tier, 5,000-15,000 is the second tier, and anything above 15,000 gallons is the third tier.

Chair Chan Hodges asked why would a single family be paying more for water than an entity like the Grand Wailea?

Ms. Ho replied that the rates were for a homogenous class of customers and categorized for a 5/8" meter. Their typical usage was about sixteen gallons per month. To keep that conservation message, they added a fourth tier and set a goal that no more than 10% of that usage would fall in that fourth block. The general consumers were kept in the first three tiers.

Member Frampton stated that there's significant fluctuations in property tax rates from year to year, so why it is so difficult to change water rates?

Director Pearson replied that they are an enterprise fund. Also, their Capital Improvement program has not been expending the money that was calculated based on the rare structure. Therefore, they don't want to increase the rates because they don't want to take in a greater revenue that they can expend.

Member Frampton said that there are significant infrastructure shortfalls. How do you raise money for that?

Director Pearson said the ability for the Department to spend, let's say \$50 million a year in capital improvements is not there. Currently with their staffing issues, the capital improvement program is unable to manage anything significantly more.

Chair Chan Hodges noted that she understood that money isn't everything in terms of resolving issues and you need capacity to expend funds and implement projects. And it's not that simple to staff a group of engineers. She also noted that the Board members could probably make a list of fifty projects they think the Department should spend money on and raise revenues for, and that if the department can increase the staff, the County could increase what it can get done. It's not necessarily easy to accomplish, but it's a solvable problem. She added that given that we have the worst unemployment in the country, anything that puts people to work should be considered.

Director Pearson stated that he agreed completely.

Chair Chan Hodges asked what if the Department reaches out to people who are high users of water?

Mr. Walker said that meters are read once a month and a report is made based on their prior 12-month usage. If someone has exceeded their prior 12-month average by a certain percentage, they will appear on this report and receive a call from the Department. There are no provisions on how much water you use and long as you pay for it, unless it exceeds a historical norm.

Vice Chair Milaskey mentioned that it would be nice if the Department tried to incentivize better managing of irrigation. It's also important to know how much water is being used by the private purveyors when you're developing new sources, in-stream standards and new wells in West Maui. That's a huge amount of water usage that's not on the Department's water system but the water is coming from the same aquifer.

Member Nobriga asked if the department has seen any changes since residential zoning has changed. Water is a public trust and what is being charged to the customer is the transmission of water. Instead of judging people's water usage, we should look at ways to incentivize less usage and find out where the real strains of costs are.

**E. Discussion of letter from the Board regarding the Department of Water Supply's Proposed FY 2022 Budget.**

Chair Chan Hodges drafted a letter to be sent to the Mayor and the appropriate Council committees.

Member Kaninau moved to approve the letter and Member Franco seconded the motion.

The Board voted unanimously to approve the letter.

**VI. OTHER BUSINESS**

**A. Commission on Water Resource Management Updates in East Maui presented by Ayrton M. Strauch, Ph. D., Hydrologist, Commission on Water Resource Management.**

Dr. Strauch said that CWRM is a seven-member board that makes management of water resources decisions. They're supported by a deputy that is appointed by the governor and there are four branches; Survey Branch, Planning Branch, Ground Water Regulation Branch and Stream Protection and Management Branch. Dr. Strauch is currently working on in-stream flow standards across the state. For the Interim IFS Process, the Commission will either receive a petition to amend an interim in-stream flow standard or they will initiate the process themselves. In 2001, the Commission received 27 petitions to amend in-stream flow standards for streams in East Maui. Then they do an inventory of Best Available Information which includes developing the hydrological data and assessing in-stream and off-stream uses of water. Then they seek agency review and comments from the public and all the information is compiled and a recommendation is prepared for the Commission's action.

The State Water Code regulates what the Commission staff bases their management decisions on and it states that "The Commission shall weigh the importance of the present or potential in-stream values with the importance of present or potential uses of water for non-instream purposes, including the economic impact of restricting such uses."

Dr. Strauch said that specific to East Maui, the Commission set six interim in-stream flow standards in 2006, and 9 or 10 were set in 2010 where there was a contested case which brought in the rest of the original petitions. The conclusion of the case in 2018 set interim in-stream flow standards for 27 streams. They are now working on the non-petition East Maui streams. In West Maui, in 2018, they set in-stream flow standards for six locations and those were not from petitions but were based on staff recommendations.

Vice Chair Milaskey asked how the hydrological units are and aren't connected.

Dr. Strauch responded that there are two different types of hydrological units; aquifer systems and surface water hydrologic units. The aquifer systems are much larger and their boundaries tend to be developed based on underlying geology, whereas the surface water hydrologic units are more defined as watersheds. In some areas, there are neighboring streams that flow to the ocean and don't connect to the main stream, but they're not large enough to necessitate an entire management unit.

Member Franco asked if Dr. Strauch was monitoring the delivery system and if he knew the status of the water flow.

Dr. Strauch said that they work with East Maui Irrigation to understand what they're operating and if they're using a particular diversion or not. His responsibility is interim in-stream flow standard. They're not regulating how much water they take, but how much they leave in the stream.

Chair Chan Hodges suggested inviting Dr. Strauch to give updates to the Board every few months, perhaps with a focus next time on West Maui since he stated that he has been doing most of his work on Maui in that area recently.

#### **B. Report on the Department of Hawaiian Home Lands Water Law and Advocacy Training.**

Member Kaninau gave a report on the training. Members Nobriga, Amorin and Franco also attended the training which was presented by Ke Huli Ao Center for Excellence in Native Hawaiian Law, William S. Richardson School of Law at the University of Hawaii at Manoa. Hi'ilei Casco and Kaulu Lu'uwai, from Maui, were part of the presentation. Dr. Jonathan Scheuer presented the Water Policy Plan of the Hawaiian Homes Commission. He outlined four primary goals and how DHHL plans to implement their actions. DHHL currently has three bills at the Legislature. Kaulu Lu'uwai covered the legislative process and how to navigate through the Hawaii State Legislature website.

Member Franco stated that he learned that Hawaiian water rights supersede all other group's water rights and they have priority in obtaining water for cultural use, kalo farming and other uses.

#### **C. Discussion of the Board of Water Supply Reference Guide.**

Member Kaninau created this manual as an overview of the Department of Water Supply and the Board of Water Supply to assist new members of the Board.

Member Frampton asked if she discussed any of the information with the Department and if something about water rates and the Board's oversight of the budget can be added.

Member Franco suggested that the Board be able to visit the different facilities.

Chair Chan Hodges said that she would assist with asking the Department to review the manual.

**D. Discussion of Six-Month Priorities List.**

Chair Chan Hodges said that supporting the Department with better communication regarding deadlines will be added to the list.

Member Kaninau suggested that all the members present their top 3 priorities for the next meeting.

**VII. DIVISION REPORTS**

Chair Chan Hodges asked the Board to review the reports and questions can be emailed to the Director.

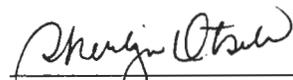
**VIII. NEXT MEETING DATE AND TIME**

March 18, 2021 at 1:30 p.m.

**IX. ADJOURNMENT**

There being no further business, the regular meeting was adjourned at 4:23 p.m.

Prepared by:



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Sherilyn Otsubo  
Commission Support Clerk

Approved for distribution:



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Jeffrey T. Pearson, P.E.  
Director