

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR BOARD MEETING
MINUTES OF OCTOBER 21, 2021

The regular meeting of the Maui County Board of Water Supply was held online via BlueJeans, on Thursday, October 21, 2021.

I. CALL TO ORDER

The meeting was called to order by Chair Dean Frampton at 1:34 p.m.

II. ROLL CALL

Members present: Dean Frampton, Chair
Nalani Kaninau, Vice Chair
Norman Franco
Antonette Eaton
Juanita Reyher-Colon

Members excused: Joseph Aquino
Buddy James Nobriga

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

Cablecast: Video conferenced live via BlueJeans and recording viewable at <https://www.akaku.org/boards-commissions/>.

III. APPROVAL OF MINUTES

Member Reyher-Colon moved to approve the minutes of September 16, 2021.

Member Eaton seconded the motion.

The motion passed unanimously with 5 ayes.

IV. TESTIMONY FROM THE PUBLIC

There was no public testimony.

V. OTHER BUSINESS

A. Presentation by the Department of Water Supply and Townscape, Inc. on the Water Use and Development Plan for Molokai.

Eva Blumenstein, Department of Water Supply Planning Program Manager, mentioned that this plan shall serve as the primary guide to the County Council, the department and all other agencies of the County in approving or recommending to other agencies, the use or commitment of water resources in the county and in using public funds to develop water resources to meet existing and projected future demands on the public water system. Over the last five months, Townscape and the department has met virtually with individuals, community groups and homeowner associations and held open regional meetings. When they start presenting preliminary strategies to address the critical issues and match water resources with projected demand, they will need this board's feedback and policy guidance.

Marti Buckner, Department of Water Supply Planner, spoke about the water use inventory and demand projections. The state has certain framework requirements. They are required to forecast scenarios showing low growth, high growth and most likely to occur. The forecast should be based on historic data, designated projects, actual water use projected in 5-year increments, and unexplained variations. The demand forecast has to be consistent with county land use plans, development plans and/or community plan. The water use inventory is based on the average water use reported to CWRM and is inventoried by potable and non-potable uses, and by CWRM water use categories. Water use is also defined by groundwater and surface water. Future water demand is forecasted for a 20-year planning horizon utilizing population growth and development projects from various sources. Demand projections consider current and future needs.

Bruce Tsuchida, Principal Planner of Townscape Inc. and consultant for the Molokai Water Use and Development Plan, said that they've been working on this project for about six months. They held 20 to 30 one-on-one meetings with Molokai residents and they had one general community meeting a couple months ago. This month they held three regional meetings for East, Central and West Molokai. They also had a special meeting with Molokai DHHL and homesteaders. They have been trying to understand the critical issues, not only technical issues, but issues from the community's point of view. Some special interests are issues about the conflict between groundwater withdrawals and flow of streams and springs into near shore waters and fish ponds. Climate change and Molokai Ranch and the ranch water system and stream diversions are also of great concern. The huge population of deer and the destruction they are causing to watersheds is a big issue. Another series of meetings will be held throughout the planning process so people can understand the details of the plan as it's being put together.

B. Discussion on Chair Frampton's testimony at the meeting of the Board of Land and Natural Resources on September 24, 2021.

Member Eaton mentioned that the Board of Land and Natural Resources (BLNR) had a meeting to approve or disapprove the final Environmental Impact Statement (EIS) for Alexander and Baldwin on the East Maui water diversions, and when Chair Frampton testified, he introduced himself as Dean Frampton, Chair of the Board of Water Supply, but that he's here representing himself. Her concern is that once the BLNR members hear that the chair is speaking, it already taints their thinking that if the chair is speaking in favor of approving the EIS, then it's probably a decision that the board made, which was not the case because the Board of Water Supply did not even discuss it.

Member Franco agreed that by identifying himself as chairman, it gave the impression that he was speaking for the board.

Chair Frampton stated that when he testified he did so with what he felt was a proper disclosure. He apologized if any board member felt that he was trying to represent the board and he spoke clearly in his testimony that everything was related to himself and his own experience. He disagrees with the perception that the chairman offers additional clout or authority.

He summarized his testimony to the other members and said that as an individual who had experience in consulting and drafting environmental assessments and EIS documents, that it's a disclosure document and you generally can't be exact in a disclosure document. He felt that EMI did a good job analyzing potential impacts and identifying mitigation measures. He noted that what he appreciated was how the EIS was seeking to find a balance between the very important and primary Hawaiian cultural users and the use of getting stream water back into the stream, but also balancing that with our need for sustainable ag in central Maui and also providing additional water to the Upcountry system. He was in support of the balance that the document was proposing. He also made a point of addressing a lot of testimony that was focused on the Temporary Investigative Group (TIG) and the potential purchase of the ditch system. While there has been a lot of discussion, the most important player in the purchase of the EMI system is the administration, and to date, the administration and the department have not come out in any way to support the conclusions of the TIG. He closed by saying that the board has the authority to condition the lease and its approval. And by that, they can specify the volume, use, and who the users are. Through those tools, he is hopeful that they would again seek the balance that is reflected in the EIS document.

Member Eaton stated that Chair Frampton knows exactly why the administration is not addressing the TIG and it's because A&B is a major political player. She asked him not to devalue the workings of the TIG by saying the administration isn't taking it up. Also, she doesn't believe that saying he is the chair is a disclosure.

She believes it was a way of misleading the BLNR members. She also had to go before the Board of Ethics to get an opinion on conflict of interest.

Deputy Corporation Counsel Whittaker responded that the general recommendations when board members speak before other bodies is, if you're speaking on behalf of the board on something that could or has come up before this board, there needs to be a board vote. If it's not a position of the board, you need to make sure that you identify your role on the board and you state that you're speaking only on your own behalf.

As far as ethics, he wanted to protect Member Eaton by making sure that once she got that written opinion she wasn't in any risk of a potential violation and was able to say as much as she wanted to say on that topic.

Member Franco said that the viewpoint that the board members agreed on was to recommend that the county start looking at the condemnation process or to exercise eminent domain and that the water delivery system of East Maui should be preserved as a public trust. He would like someone from the administration to come to the next meeting to tell us where they stand on this matter.

Member Eaton stated that the board did not talk or come to any conclusions about the final EIS at any of its board meetings.

Chair Frampton said that he's not debating the merits of the TIG and he voted to support the TIG because the TIG members went along with his request to include a conversation piece that said that they consider a public/private partnership. Also, by stating that the administration has not taken it up was not meant in any way to devalue the work of the TIG, it was just pointing out the fact that they have not acted on it. If there is an entity that's going to move the process along, it needs to be the administration. The EIS wasn't discussed and wasn't even scheduled in front of this board, which would clarify that he was not speaking on behalf of the board. If he doesn't do a disclosure, then he doesn't have an opportunity to express himself as an individual and he's left with no opportunity to provide any comments or be involved in public participation.

Vice Chair Kaninau said that we're an advisory committee and we're trying to figure out how to communicate with the people that we're supposed to be communicating with. She's disappointed at the disconnect that happened at some point with having Councilmember Sinenci or his representative attending our board meetings. She would like to either have Councilmember Sinenci participate in our meetings or testify as individuals at his meetings.

Chair Frampton asked how the mechanics of the TIG function right now?

Deputy Corporation Counsel Whittaker stated that the TIG presented its report to the board and the TIG has been dissolved and there are no further actions to take.

Member Eaton stated that Chair Frampton should have represented himself as a consultant or whatever his personal business is, instead of saying that he is the

Chair of the Board of Water Supply, especially since this topic was never discussed during a board meeting. Member Eaton asked if the chair has ever done consulting work for Mahi Pono or A&B.

Chair Frampton replied that he has never worked for Mahi Pono and he did consulting work for A&B, in past projects, over 10 years ago.

Member Eaton said that for full disclosure, Chair Frampton should have introduced himself as a consultant who has worked with A&B in the past, instead of Chair of the Board of Water Supply. The TIG is dissolved, but the report is still a crucial and valid report.

MEMBER EATON left the meeting at 2:29 p.m. and the board lost quorum.

VI. DIVISION REPORTS

Director Pearson reported that as of today he is planning on pulling the Stage 1 water shortage and rescinding that for the Upcountry system. There has been steady rains over the last few weeks and the reservoirs are full or near full. The Olinda Treatment Plant is still down due to the removal of sludge, which should take another couple weeks. When they get ready to start up the treatment plant again, they need to inform the customers that they'll switch back from chlorine disinfection to the normal operating procedure of chloramine disinfection.

The Department of Health has inspected and approved the ultraviolet disinfection that was installed at the Mahinahina Treatment Plant. At the same time the treatment plant was down, they also replaced the whole control system, so everything is now up and running.

Member Kaninau asked if the board can go on another field trip.

Director Pearson suggested visiting the Piiholo and Mahinahina Treatment Plant. He will discuss this with the chair.

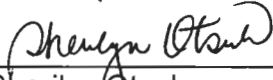
VII. NEXT MEETING DATE AND TIME

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

VIII. ADJOURNMENT

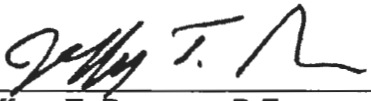
There being no further business, the regular meeting was adjourned at 2:36 p.m.

Prepared by:



Sherilyn Otsubo
Commission Support Clerk

Approved for distribution:



Jeffrey T. Pearson, P.E.
Director