

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR BOARD MEETING
MINUTES OF MAY 19, 2022

The regular meeting of the Maui County Board of Water Supply was held online via BlueJeans and at the physical location located at the Planning Department Conference Room, 250 South High Street, Wailuku, Hawaii 96793. Recordings of the meetings are viewable at <https://www.akaku.org/boards-commissions/>.

I. CALL TO ORDER

The meeting was called to order by Chair Buddy Nobriga at 1:33 p.m.

II. ROLL CALL

Members present: Buddy James Nobriga
Jason Hew
Edwin Lindsey
Juanita Reyher-Colon
Ralph Thomas
Donna Sterling (arrived at 1:38 p.m.)

Members excused: Dean Frampton
Antonette Eaton

Staff present: Helene Kau, Acting Director
Keola Whittaker, Deputy Corporation Counsel
Sherilyn Otsubo, Secretary to Boards and Commissions

III. APPROVAL OF MINUTES

Member Reyher-Colon moved to approve the minutes of April 21, 2022. Member Thomas seconded the motion. The motion passed with no objections or discussion.

Chair Nobriga mentioned that approving the minutes is an option of the board since the meeting is recorded and the minutes are documented. He asked if the board wants to continue the process.

Member Reyher-Colon said she would like to continue to review and approve the minutes.

IV. TESTIMONY FROM THE PUBLIC

There was no public testimony. Member Reyher-Colon made a motion to close public testimony. Member Lindsey seconded the motion. There was no objection.

V. UNFINISHED BUSINESS

A. Update from Administration on the status of the Wailuku Water Company purchase.

Managing Director Sandy Baz stated that they made a formal offer to purchase Wailuku Water Company but that offer was rejected and no counter offer was made. That was the end of that request. They have been working with the Trust for Public Land and the state to possibly have the Trust for Public Land acquire the property and then transfer it to the county. They have presented to the Trust for Public Land, the requirements that are needed to acquire and manage the property. There are concerns with the condition and inspection of the dams and reservoirs and some of the easements have not been executed and properly recorded. One of the challenges is that the county still has not been able to go on property to inspect the system.

Vice Chair Hew asked if the acquisition by the Trust for Public Land would be any different than if the county was purchasing it.

Managing Director Baz replied that they are a non-profit organization and they haven't disclosed how they would acquire it.

Member Thomas asked if the state will be doing an inspection to make sure hazardous materials are not on or around the property.

Managing Director Baz said that that would be another issue. We don't want to acquire property that has a significant amount of environmental challenges to it. The state requires that dams and reservoirs be inspected and pass certain criteria.

Vice Chair Hew asked if the inspection of the dams and reservoirs by the state happens regardless of the transfer of land.

Managing Director Baz said that he would hope so.

Chair Nobriga asked if the administration has money set aside for the purchase.

Managing Director Baz said there was \$2 million for Fiscal Year 2022. He doesn't believe there was money set aside for Fiscal Year 2023.

Deputy Corporation Counsel Whittaker clarified for the record that a motion and a second was made for the approval of the minutes and for closing public testimony, but no vote was taken. As there were no objections, the board secretary will note it as so.

B. Discussion on water rates and rate structure.

Chair Nobriga stated that he put this on the agenda because it is in the board's purview to make recommendations and in the past the board has been too late in doing so.

Member Reyher-Colon asked when Councilmember Rawlins-Fernandez would be coming back to the board to give an update.

Chair Nobriga said that he will ask her to attend the next meeting.

Member Thomas said he checked the rates of the other counties but had difficulty finding information about rainfall.

Member Reyher-Colon said that the USGS website has rainfall and stream flow data.

Vice Chair Hew said that the University of Hawaii Rainfall Atlas is also helpful.

Chair Nobriga said that from his experience, the board has not made recommendations on time, so the Council has set the rates. There hasn't been an increase in quite some time.

C. Department of Water Supply's Financial Statements and Auditor's Reports.

The board did not have any questions.

VI. DIVISION REPORTS

Director Kau didn't have comments on the division reports. She mentioned that the National Weather Service is forecasting a drier than average rainfall. In anticipation of that, they are going to continue to analyze available supply and anticipated demand. They are particularly concerned about West Maui. At some point it may be necessary to consider a declaration of water shortage.

The board did not have any questions for the Director.

Deputy Corporation Counsel Whittaker mentioned that next week, the Agriculture and Public Trust Committee will be discussing water issues. One thing they're considering is an amendment to the charter to create an East Maui water authority which would reduce powers of this board as it would create a new water authority for East Maui only. There's a bill proposal and a charter amendment proposal.

Deputy Corporation Counsel Whittaker also sent a letter to an attorney representing a party in a contested case that the board will hear later this year. This attorney wrote to the board secretary asking her to send documents to the board relating to settlement discussions that are not part of the official appeal record. He advised her not send the letter to the board as it would affect the board's ability to adjudicate in a fair way. He informed the attorney that if he wanted the board to receive those documents, to make it part of the appeal as an exhibit. Deputy Corporation Counsel Whittaker's legal analysis is in the

letter.

Deputy Corporation Counsel Whittaker recommends that the board approves that a letter goes out to anyone who makes this type of request, asking them not to do that for the reasons set forth in his legal analysis. Parties should not be sending materials as individuals or as a board, prior to the appeal hearing.

Vice Chair Hew made a motion to draft the letter. Member Reyher-Colon seconded the motion.

Member Sterling commented that it's disturbing that an attorney would go directly to a staff member instead of the chair.

Chair Nobriga called for the vote. The motion passed unanimously.

Deputy Corporation Counsel Whittaker reminded the board that the Ventura contested case hearing is scheduled for June 2nd. All the documents related to this case are on the website and we need 6 members for quorum.

VII. NEXT MEETING DATE AND TIME

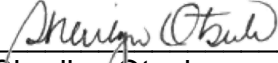
Contested Case Hearing: June 2, 2022 at 9:00 a.m.

Board Meeting: June 16, 2022 at 1:30 p.m.

VIII. ADJOURNMENT

There being no further business, the regular meeting was adjourned at 1:59 p.m.

Prepared by:



Sherilyn Otsubo
Secretary to Boards/Commissions II

Approved for distribution:

Helene Kau
Director