

BOARD OF WATER SUPPLY  
COUNTY OF MAUI

REGULAR BOARD MEETING  
MINUTES OF SEPTEMBER 15, 2022

The regular meeting of the Board of Water Supply was held online via BlueJeans and physically at the Kalana Pakui Building 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 1:30 p.m.

II. ROLL CALL

Members present: Buddy Nobriga  
Jason Hew  
Dean Frampton  
Edwin Lindsey  
Antonette Eaton  
Juanita Reyher-Colon  
Donna Sterling  
Ralph Thomas

Staff present: Helene Kau, Director  
Keola Whittaker, Deputy Corporation Counsel  
Sherilyn Otsubo, Board Secretary

III. APPROVAL OF MINUTES

Member Reyher-Colon moved to approve the minutes of August 18, 2022. Vice Chair Hew seconded the motion. The motion passed unanimously.

IV. OTHER BUSINESS

A. There was no testimony on Other Business.

B. Discussion of creating a TIG relating to water rates.

Deputy Corporation Counsel Whittaker discussed the pros and cons of forming a temporary investigative group (TIG) or what the Sunshine Law calls a permitted interaction group (PIG). Two or more board members, but less than quorum, may be assigned to investigate this matter relating to the business of the board. There needs to be three meetings that occur. The first meeting will define the scope and the scope of what each member will be assigned to take. Once that is voted on, the TIG can start conducting its investigation. At a second meeting of the full board, the TIG will report its findings and recommendations. At that meeting, the

board cannot discuss or deliberate on the report. At the third meeting, the board can discuss, deliberate and vote on the report.

TIGs are not subject to the Sunshine Law requirements for giving notices and holding open meetings. They can meet in private and only discuss topics that have been assigned to them. They can communicate by email and telephone. They can solicit input from the public as part of their investigation and they can communicate with council and with the department on that subject matter. The TIG cannot consult with other members of the board during its investigation and members of the board who are not part of the TIG cannot attend TIG meetings. In the past, members of the TIG would come before the board and discuss the status of their investigation before presenting their final report. Now that is not permitted. The TIG cannot give the board updates and the board cannot discuss the topic that's been assigned to the TIG. Also, if a member of the TIG ceases to be a member of this board, the board cannot substitute another board member in that vacant position.

Chair Nobriga said this matter is very important to our county and it's what this board is tasked with as one of its advisory roles. The new information from OIP caused some hesitation because we won't hear from the TIG until they are done with their investigation. It's his recommendation to put a time constraint on the TIG to have the third meeting by February.

Deputy Corporation Counsel Whittaker suggested the board consider the timing of when this board reviews the department's proposals for water rates.

Director Kau responded that the department begins working on its proposed budget sometime in October. That budget won't be finalized until around the first quarter of next year. Changing the rates is possible within this timeframe, but it's not feasible to change the structure. It would involve the billing system and it takes a long time and quite a bit of money to make changes to the structure. A better path might be to change the rates to try to achieve the goals of what the TIG would recommend.

Member Reyher-Colon asked why we are trying to get this completed by December or January instead of waiting until more information becomes available.

Deputy Corporation Counsel Whittaker said that the scope of the TIG can be smaller and it'll just take a few months to complete the investigation, or it can be larger and can go beyond March. He recommends not putting any board members who will be leaving in March on the TIG.

Chair Nobriga is open to letting the TIG go as long as this board feels necessary.

C. Discussion of the scope of the TIG and selecting its membership.

Vice Chair Hew asked if the board would like the scope to include strictly rates or rates and structure.

Member Eaton said Director Kau stated that it would take a long time to change the structure, so the only thing we can do is change the rates.

Member Reyher-Colon stated that it might be in our best interest to look into potentially changing the structure so we can understand better how to apply rate changes. She doesn't expect things to change within a year or two, but unless we do our due diligence, we won't know.

Member Sterling said that we need to address both structure and rates.

Director Kau asked that the board take into consideration the fact that the existing structure is very complex. She recommends that they determine what they want the end goal to be because they will need to conduct a rate study to determine the impact of whatever that proposed structure would have on the existing customer base. There's more than one way to arrive at the goal.

Member Lindsey suggested the first TIG could be more exploratory, finish that off, then do another TIG later. It's also bewildering that understanding rate structures is so complex.

Chair Nobriga said the TIG could take up structure, and rates could be discussed with the board during regular board meetings. Our goal should be understanding the rate structure and coming up with options to get where we want to go.

Member Frampton said addressing the rates as a board is a good option and we should be finding a structure or rate system that encourages efficient use of our resources. He doesn't want a system that's punitive where we don't give people an option.

Member Hew agrees and stated that Councilmember Rawlins-Fernandez had the same intention. He also agrees on the availability of R-1 water for non-potable uses. Is that infrastructure available to anybody who would like to use it? And if not, how long would that take compared to revamping that rate structure?

Member Frampton replied that there are no plans to bring R-1 water to Wailea at this point.

Member Eaton doesn't want to penalize anyone for using the water, but they shouldn't be using all the stream water for irrigation. They should provide their own source if they want to use water to irrigate their hundreds of acres. The Department of Water Supply is infamous for having other people pay for the infrastructure woes that the county is going through. We shouldn't penalize them, but they need to come up with their own source or pay for the water that's coming from outside their area.

Member Frampton said he hopes we can work towards giving options because if the wastewater department is putting millions of gallons of water a day into injection wells on the south and west side, why aren't we trying to be more

proactive and looking ahead where that treated wastewater could be used more efficiently.

Deputy Corporation Counsel Whittaker said we shouldn't stray too far from what's on the agenda. We should stay on the scope of the TIG instead of discussing policy.

Vice Chair Hew suggested using the TIG to learn more about the structures and not necessarily to make changes to that structure.

Member Lindsey stated that we've been talking about using R-1 water for irrigation for a long time. Can we utilize the TIG to look at the feasibility of establishing R-1 water usage and storage capacity throughout West and South Maui?

Member Eaton replied that it's with the Department of Environmental Management.

Chair Nobriga said R-1 water is not in the scope of the water department or in this board's purview.

Member Reyher-Colon made a motion to create the TIG to look at the rate structure.

Member Eaton seconded the motion.

Chair Nobriga stated the scope will be to address rate structures and to provide a recommendation on the rate structure with no time limitation on the TIG.

Member Frampton asked to consider recycled water that's related to use, related to structure, and related to conservation.

Deputy Corporation Counsel Whittaker said the TIG can include R-1 water as part of their investigation and report with the understanding that the board generally makes recommendations that relate to the department's activities and water use within the county. This board also makes recommendations to the council and the administration, and they oversee the other departments, including DEM. Since this is related to water, it can be in the scope of the TIG.

Member Reyher-Colon restated the motion to have the TIG's investigation include R-1 use and to include a time frame to complete the investigation.

Member Eaton seconded the motion.

Chair Nobriga suggested putting a March deadline on the TIG and he is willing to have a special meeting so the existing members are able to vote.

Vice Chair Hew asked if you can extend the time frame of the TIG.

Deputy Corporation Counsel Whittaker replied that you cannot amend the scope, but you can extend the time frame if necessary.

Chair Nobriga called for the vote on forming the TIG with a scope of looking into the rate structure and the environmental use of reclaimed water with a deadline of March 2023.

The motion passed unanimously.

Deputy Corporation Counsel Whittaker said the board needs to come up with the membership and determine what their powers will be. It would generally be to conduct the investigation based on the scope and to have the TIG members speak with the Department of Water Supply, Department of Environmental Management, councilmembers, administration and anybody they feel necessary, and then to develop a report and present it to the board within the timeframe.

Member Reyher-Colon, Member Thomas, Member Sterling and Vice Chair Hew volunteered to be on the TIG.

Vice Chair Hew made a motion to accept the TIG members and their powers, as stated by Deputy Corporation Counsel Whittaker.

Member Frampton seconded the motion.

The motion passed unanimously.

## V. DIVISION REPORTS

A. There was no testimony on Division Reports and all remaining agenda items.

Director Kau said we're still in Stage 1 for Upcountry and West Maui. There has been some improvement in source water for Upcountry. October tends to be fairly dry but she appreciates all of Maui for supporting their efforts. There has also been a reduction in consumption in Central Maui.

Vice Chair Hew asked why the reservoir levels for Piiholo in the middle of the month had an upward trend while the Kahakapao reservoir had a steady decline.

Director Kau said she believes it's when some of the source has either increased or decreased, they close some valves to move the water from one place to another.

Chair Nobriga asked if the rains in South Maui affected any equipment or if there were any issues we should be aware of with debris that comes down and hits our lines and exposed areas.

Director Kau replied that fortunately the system remains intact. The department engaged in several valve installations this year and last year which helped.

Member Eaton asked why DHHL had to come up with their own storage tank in the same area that the county recently approved to accommodate the new Kuikahi Village subdivision with 202 units.

Director Kau replied that it's a question for the Engineering Department.

Member Eaton asked where the source of the Kuikahi project is coming from.

Director Kau will respond in writing.

Chair Nobriga said that by State statute, they get 20% of the water. The administration took the last 3% of the aquifer yield and designated it towards affordable housing, so that might be where that approval came from.

#### VI. NEXT MEETING DATE AND TIME

Contested Case Hearing: September 21, 2022 at 1:30 p.m.  
September 26, 2022 at 1:30 p.m.

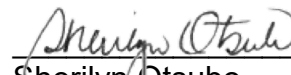
Board Meeting: October 20, 2022 at 1:30 p.m.

Deputy Corporation Counsel reminded the board about the upcoming contested case hearings and how important it is for members to attend.

#### VIII. ADJOURNMENT

There being no further business, the regular meeting was adjourned at 2:31 p.m.

Prepared by:

  
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Sherilyn Otsubo  
Secretary to Boards/Commissions II

Approved for distribution:

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Helene Kau  
Director