

WATER RESOURCES COMMITTEE

Council of the County of Maui

MINUTES

August 18, 2008

Council Chamber

CONVENE: 9:09 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Michelle Anderson, Chair
Councilmember Gladys C. Baisa
Councilmember Danny A. Mateo
Councilmember Joseph Pontanilla

NON-VOTING MEMBERS:
Councilmember G. Riki Hokama (in 9:17 a.m.; out 9:35 a.m.)

EXCUSED: Councilmember Michael P. Victorino, Vice-Chair

STAFF: Kim Willenbrink, Legislative Analyst
Clarita Balala, Committee Secretary

Seated in the gallery:
Jock Yamaguchi, Executive Assistant to Councilmember Michelle Anderson

ADMIN.: Jeffrey K. Eng, Director, Department of Water Supply
Tui Anderson, Water Conservation Specialist, Department of Water Supply
(Item No. 14)
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:
Roy Silva, Executive Assistant, Office of the Mayor
Tamara Horcajo, Director, Department of Parks and Recreation (Item No. 14)
Francis Miyazono, Maintenance Superintendent, Department of Parks and Recreation (Item No. 14)

OTHERS: Carl Freedman, Consultant, Haiku Design and Analysis (Item No. 14)

Richard H. Pohle (Item No. 1)
Bud Pikrone, Wailea Community Association (Item No. 14)
James Jones, President, Pukalani Plant Company (Item No. 14)
Allan Schildknecht (Item No. 14)
Andre Adoloffo, HISCO Maui Inc. (Item No. 14)
Dan Honma, Makena Golf Courses and Maui Prince Hotel (Item No. 14)
Juan F. Gutierrez, Kapalua Land Company (Item No. 14)

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

Ken Ota (Item No. 14)
Ernest H. Rezens (Item No. 14)
Warren Shibuya (Item No. 14)
Bill Mitchell, Chris Hart & Partners (Item No. 14)
(6) additional attendees

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

CHAIR ANDERSON: ...*(gavel)*... Good morning, Members. The Water Resource [*sic*] Committee meeting of August 18th is now in session. With us this morning we have Member Joe Pontanilla. Good morning. Member Gladys Baisa.

COUNCILMEMBER BAISA: Good morning.

CHAIR ANDERSON: Good morning; and Member Danny Mateo. Vice-Chair Victorino is excused. With us from the Department, we have Director Jeff Eng.

MR. ENG: Good morning.

CHAIR ANDERSON: Good morning, Jeff. And Deputy Corporation Counsel Ed Kushi is here with us this morning, as well as our Staff Analyst Kim Willenbrink, and Secretary Clarita Balala.

So, Members, on our agenda we have our Water Conservation Bill better known as Outdoor Irrigation and Water Use Schedule. We've gotten lots of press on this I guess and also lots of last minute testimony. And, you know, I'm glad that people are now aware of what we're doing, at least knowing that we're doing something, but I'm not sure that they are totally informed as to the measures that we're looking at. We have quite a few people that are going to testify this morning, and I would like to preface that testimony with some comments about our draft bill so that people are a little bit more informed as to the direction the Committee is taking.

Again, this is a water waste bill basically. We want people to be more conscientious about the use of this public resource. It, the source that we are using in all instances, the Upcountry system, the Central system, and the West Maui system are all under stress. So we need to find a way to use our water more wisely. I have spoken with golf course people, I've spoken with irrigation people, I have spoken with, spent five hours with the Grand Wailea on Friday. I have spent a lot of time trying to get more informed. As the issue came forward people became involved and naturally we started hearing from them.

So the effort that we're making here, here today is based on lots of factors which we're going to be bringing forward for everyone's information this morning so that people understand why we're taking these measures. And as I said before this is not something that isn't being done across the nation already. In some areas, more drastic than what

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

we're proposing. This is not a drought mitigation measure per se as far as a drought emergency situation. Should we get in that predicament where we have an actual water shortage, then more drastic measures will have to be taken. And so, what we are doing in this bill is to forestall that from ever happening. We're not trying to be punitive, we're trying to be water wise.

And so, I want to just briefly go over this new draft bill. I've made some changes that I think will be helpful to some people. Everything that we've put in this bill, up to now, have been recommendations by the nation's expert on water conversation. So it's not anything that I'm pulling out of my hat.

When we started out with this bill, Members, the watering schedule that I was proposing was a three day a week schedule. At, I think the meeting before last or maybe even our first meeting, we were advised that, by our conservation...geez, Tui, Conservation Specialist for the Department of Water Supply that it's, it's better to use a two day a week schedule because studies have shown that you save more water two days a week than every other day. I'm going to throw those options up for discussion and vote today by the Members so that we can make a decision, one way or the other, either two days a week or three days a week.

Just so that you'll know, Members, I have passed out a draft for you. The, the bill restricts watering to the hours of 6:00 p.m. to 9:00 a.m., which means there will be no watering during the day. From 9:00 a.m. to 6:00 p.m., watering is prohibited and that's pretty much a common sense implementation because you're not, you're not throwing water into the air and the wind, and allowing it to be evaporated by the sun.

So currently the bill says that addresses ending in even numbers shall irrigate only on Mondays and Thursdays. Addresses end, ending in odd numbers shall irrigate only on Tuesdays and Fridays. Common areas with no addresses shall be irrigated on Wednesdays and Saturdays. Large landscaped areas that must be irrigated in rotated zones shall landscape some zones on Mondays and Thursdays and remaining zones on Tuesdays and Fridays. This was put in to accommodate those people who cannot meet all of their watering needs in one day such as large hotel properties and parks. We already know that our parks can't do that.

Now, I want to say very clearly what is being exempted, and Members, some of this we've already discussed and some we haven't. So I'm going to read this as my proposal or my recommendation. We've already discussed exempting watering with handheld hoses that have automatic shut off valves. And that means any time; any time during the day, any day of the week you can water by hand with an automatic shutoff nozzle. So for those people who are concerned that they can't meet all their needs this is a fallback.

The other thing that I'm recommending today is that we exempt drip irrigation systems. If you're using drip irrigation, you are already conserving water to its maximum potential. And so I don't feel that we should make any restrictions on day of the week or

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

time of the day if you use drip irrigation. Another exemption is for commercial or private nurseries or commercial farms. They are also exempt from this watering schedule. Also, personal food gardens. Those are also exempt. Recently installed landscapes which may be watered at night on a daily basis for up to, up to 60 days to establish plantings. Previously, Members, we had 30 days, but I heard from people who felt 60 days would be more appropriate to establish plantings.

Also, I put in another exemption for installation, repair or maintenance of new or existing irrigation systems. So we wouldn't expect people to install an irrigation system in the middle of the night so that they can turn on the water. We're also exempting 100 percent, irrigation using 100 percent reclaimed water. Of course, we want to utilize as much of the reclaimed water as we can otherwise we're injecting it. And also exempt are golf courses. However, they shall be watered at night before 9:00 a.m.; after 6:00 p.m. and before 9:00 a.m. the regular timing schedule. Athletic playing fields shall be allowed to irrigate four nights per week to maintain minimum playing condition of fields.

Hotels with large turf areas utilized for events shall be allowed to irrigate three nights a week. All manual car and boat washing, I added boats. Oh, and I'm sorry, Members, I did add that last one that I just read, hotels with large turf areas. After my discussion with Grand Wailea I could see their need to have three days a week, and it's not, it's not specified as to what days, like we have for everything else, because they need to have the flexibility if they have an event one day that may be a specified watering day, they need that flexibility to move their watering around in order to meet their needs and still meet the needs of their guests and whatever events they may have scheduled. I added boat washing. We previously had all manual car washing shall utilize handheld hoses. I thought we better throw boats in their too.

Then I added another provision number. Water runoff onto streets, sidewalks, and gutters shall be prohibited. That's a major waste, and we want to make sure that we can have some mechanism to require people to stop that practice.

Cases of extraordinary circumstances may request a variance from the Director of Water Supply. I put that in, Members, because it's likely that we are not thinking of every scenario and there may be a scenario that would require a variance from what we're doing. So, and, and I've noticed that many other ordinances for water conservation allow for variances. And this would just be a request to the Director. This is not an appeal of a violation. Maybe someone can think of a reason for a variance. I can't think of one, but then that doesn't mean there isn't.

COUNCILMEMBER PONTANILLA: I got one classic one for you.

CHAIR ANDERSON: Okay. Great.

COUNCILMEMBER PONTANILLA: Like the Maui County Fair.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Right.

COUNCILMEMBER PONTANILLA: Because you have thousands of people trampling all over the turf, you know, it would be best that, you know, we keep it watered for the next day actually.

CHAIR ANDERSON: Thank you, Mr. Pontanilla, that is an excellent example. The Department of Water Supply shall develop and implement an education program to implement this section. It's no good for us to pass this unless we have some effort on behalf of the Department to get out there and educate people, and I hope *The Maui News* shows up, and we will certainly put press releases out to get people onboard.

Then I also added a section, Members, that would allow to have the provisions that we are implementing reviewed for effectiveness by the Department of Water Supply, and the County Council within a year of inception. We want to know is, is this working? Is this saving water? And we can't do that unless we have a review.

So that's basically what the bill says. There's also a standard enforcement section that is already in the County Code under Title 19, and we're implementing it for the effective enforcement of these provisions under Title 14.

Okay, Members. We have quite a few people test..., who want to testify, so let's go for it.

Those of you in the gallery today thank you for coming. We appreciate your attendance. If you have a cell phone, please turn it into the silent mode. You will all have three minutes. And today since we have so many testifiers I'm going to limit everybody's testimony to three minutes, and I'm also going to restrict Members to questions only so that we can get through this and get to the business of the day. Okay. Our first testifier is Richard Pohle followed by Bud Pikrone.

...BEGIN PUBLIC TESTIMONY...

MR. POHLE: Madam Chair, this testimony is on water supply rules rather than drought. It's about four minutes.

CHAIR ANDERSON: Mr. Pohle, you may have three minutes.

MR. POHLE: I'm Richard Pohle, owner of a 3.47 acre parcel zoned rural half-acre and home of Valley View Protea Farm on upper Crater Road. When I asked about subdivision of my parcel, I was told that I would have to provide between one-quarter and a half million dollars on County infrastructure improvements outside of my parcel to satisfy the newly enacted water flow requirements of 1,000 gallons a minute for two hours for fire

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

protection. Even if I did that no Upcountry meters were being issued. Maui County has no plans to improve the situation. I am not alone. There are 1,312 parcels on the Upcountry meter priority list and some have been waiting for 12 years for a meter. As interpreted by your Fire and Water Departments, no boundary changes, no matter how small, can be made without this unreasonable expense. The result is frustration and paralysis to the landowner. The Upcountry people deserve better. Here is a better solution.

First, eliminate current fire protection flow rate requirements relating to County infrastructure external to the subdivision. Continue to require water flow rates within the subdivision. After all, the roads and boundaries of subdivisions do not require fire protection. Only buildings require fire protection. To provide funds for County water flow infrastructure improvements during the building permit process on these parcels add 5 percent of the expected assessed value of the building to the permit cost. Use these funds only to improve the County water flow infrastructure. Revert to the hold harmless letter approach of the year 2000. Require sprinkler systems in residences and, if necessary, a small water tank to support them. Small water tank kits cost about a dollar a gallon.

Second, give everyone on the water meter priority list special meters. These special meters would be limited to 200 gallons a day during drought. There would be no hardship for Upcountry people especially not for those requesting meters. We are not a desert people. We live in a tempered climate. Our grass does not die in drought it just turns brown. The average usage of my family, daughter's family of four and our protea farm was only 175 gallons a day over the last year. If we need more water let us build a small tank.

These changes would benefit the County. For example, with our homeowner's exemption I paid \$116 in taxes in 2006 for a parcel taxed as a farm. If I could, I would subdivide that parcel into five view lots. The four lots with newly built houses would be assessed at \$800K each and would immediately provide \$160K to the fire infrastructure fund. Each year, the five houses taxed as residents would pay \$18,000 in property tax.

The subdivision policy of Maui County as currently interpreted by your Water and Fire Departments effectively excludes the small parcel owner from any development. Only well-funded huis --

MS. WILLENBRINK: Three minutes.

MR. POHLE: --can afford to develop the land and when they do, they must do so on the grand scale. The excluded people are long-time citizens of Hawaii.

CHAIR ANDERSON: Mr. Pohle, do you have your testimony written?

MR. POHLE: Yes, I do. I have three more sentences.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Okay. You, you need to conclude please. You can finish with one sentence, Mr. Pohle, and then I'll ask for questions. I want to be fair to everyone. We all want everyone to have their full three minutes. Did you have one more sentence you'd like to conclude with?

MR. POHLE: The excluded people are long-time citizens of Hawaii. They are those who want to subdivide for their children, start a bed and breakfast, or build a small rental income, for extra income, or build a small building on their parcel to help with their business or even move the boundary line to allow for a better access road. These people are poorly served by the policies in WR-1. If these policies are not changed, I ask you to vote against the adoption of these policies as provided in water rules, WR-1. Thank you for the extended time.

CHAIR ANDERSON: Okay. Mr. Pohle, just so you know, we don't, we're not discussing that today. It's not on our agenda for discussion, but if you will leave a copy of your written testimony we'd appreciate that. Members, any questions? Seeing none, thank you, Mr. Pohle.

MR. POHLE: It is, I have left a copy, and it is in correspondence number two of the Water Supply Rules in the agenda. Thank you.

CHAIR ANDERSON: Yeah. Yeah, it's on the agenda, Mr. Pohle, but that particular fire flow issue is not taken up, being taken up today. Mr. Pikrone is followed by James Jones.

MR. PIKRONE: Good morning, Chair. Good morning, Members. My name is Bud Pikrone. I'm representing the Wailea Community Association. I encourage what's going on here today, the discussion, and I'm, I'm, it always helps to bring it to everybody's attention. However, I don't really consider this a conservation bill as much as a curtailment, and they're really not the same thing. For conservation to work only regulation, use of regulation is not the way to go. We need to do more. We need to look at positive work to be done on education, public/private partnerships to improve our catchment systems, and the transmission systems to better utilize the treated wastewater of the island, and also develop new water sources through new wells and technology like desalinization. We just need to seriously start looking at that. That's the only way we're going to solve our water issues.

Can we do conservation? Yes. But by doing just restrictions we're really not offering incentive for people to really buy into the whole conservation idea and that's what we need to do. We need people to realize how to conserve, and you're not giving an incentive by doing this. So people do. They cut back. Possibly their plants begin to die off, so they have to start now spending money to go and put in new plants to create an Arizona, or dry area, or desert look to the island in the dry area, as Wailea is being called. And then what does that do to our tourism where people are going to start saying, well,

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

why not just go to Arizona. We came here to go to a tropical area, and we're ending up in desert plants. There's no incentive.

Then they spend all this time and money, and their reward is an increase in the water rates because income has gone down. This is, these are the possibilities. So I don't see where the incentives are unless we start encouraging people to do this the proper way. And I think that can be done, and I think there are ways that we can do that without putting restrictions on different associations, and I encourage any of you to come to Wailea or ask me, sit down with me. I know the Chair has spent some time there, and I really appreciate that.

But if you really want to learn what the association and Wailea can do to help, and we have a program that we have been putting in place over the last year and developing, and we will continue to do that. However, with the restrictions in it really curtails our efforts on putting this program together, and it will be to work on the County land that we worked with. We take care of all the County roadways there, the parks, and that, and it, we also are going to be working with all of the homeowners associations. We are undergoing training beginning tomorrow actually to do --

MS. WILLENBRINK: Three minutes.

MR. PIKRONE: --our work. So what I'm asking for here is to please look at programs to work on true conservation and not curtailment. Thank you.

CHAIR ANDERSON: Thank you, Mr. Pikrone. Any questions, Members? Seeing none, we appreciate you being here. We have your written testimony also. James Jones followed by Allan, excuse me, Schildknecht. All the way from Kaneohe. Mr. Jones.

MR. JONES: Good morning. My name is James Jones. I'm the owner and President of Pukalani Plant Company. Pukalani Plant Company is a wholesale plant nursery that supplies plant material to Maui's retail garden shop, hotels, condominiums, and landscape contractors. Pukalani Plant Company provides full-time employment for 11 Maui residents. We have been, we have nursery operations in Pukalani and the Kula Agricultural Park. Pukalani Plant Company has been in business since 1992.

It was brought to my attention that an ordinance was being considered by the Maui County Council regarding the scheduled use of water in new and existing landscapes. I'd like to take this opportunity to share my thoughts regarding this. I believe that the management of Maui County's water resources is of extreme importance. It is undeniable that the availability of water is becoming more of an issue for the entire island; however, that being said I feel that the ordinance that has been written to potentially address this problem is incorrect. The water issue is a multi-faceted problem that goes far beyond the irrigating of yards and landscapes. I believe that this is an issue that deserves much more thought and study so that the appropriate measures can be made achievable and suggested requirements be realistically enforced. Thus, it is my opinion

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

that care must be taken in approving a bill that will have unintended consequences and that doesn't really address the issue. I encourage you to vote no. Thank you.

CHAIR ANDERSON: Hang on, Mr. Jones. Any questions, Members? Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mr. Jones, for being here this morning. You do have, you do own a nursery. Where at? Up --

MR. JONES: Correct.

COUNCILMEMBER PONTANILLA: --Kula?

MR. JONES: Kula and Pukalani.

COUNCILMEMBER PONTANILLA: So you utilize potable water or do you have a well too?

MR. JONES: Well, we have non-potable and potable water.

COUNCILMEMBER PONTANILLA: Non-potable...

MR. JONES: In Pukalani, yeah, we have water from the County system. In Kula we have water from the ditch system.

COUNCILMEMBER PONTANILLA: Okay. Thank you. Thank you, Chairman.

CHAIR ANDERSON: Thank you, Mr. Pontanilla. Mr. Jones, you, you recognize that you're exempt? Your nursery is exempt from this?

MR. JONES: Correct.

CHAIR ANDERSON: Do you use drip irrigation for your planting?

MR. JONES: We use drip irrigation on some of our larger trees.

CHAIR ANDERSON: Just on your trees?

MR. JONES: Yeah, it would not be appropriate for the smaller material.

CHAIR ANDERSON: Okay. Thank you. Allan, you're next, and I'll let you pronounce your name followed by Andre, Andre, I can't read your writing.

MR. SCHILDKNECHT: I, I murder my last name myself. I pronounce it Schildknecht.

CHAIR ANDERSON: Schildknecht.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. SCHILDKNECHT: Yeah.

CHAIR ANDERSON: Thank you.

MR. SCHILDKNECHT: I, I, must admit after seeing this revised draft it is a little bit more palatable and a lot more user friendly than what the original draft was. There was a couple issues I'd like to make though.

It seems like it was drafted, the initial one was drafted after the southwest Florida legislation that was proposed in 2003 and a lot of that has been backed, backed off of over that time. What they did find, though, is that the savings is only about 5 to 15 percent with that enactment. And I think that the goal is really to strive for more conservation of water. And I'd like to offer a couple more exemptions as a possible thing to work towards. And that is the smart technology of introducing controllers that actually work off evapotranspiration of the site so that you're tailoring it to the needs or soil moisture sensors that would monitor the actual need of the plant material in that given area. And these are very refined.

The EPA has done some testing on it, and they're finding that the savings is anywhere from 15 to 25 percent of water which is substantially more. Drip irrigation in Hawaii does save about 15 percent. I think that it's commendable to keep that in there. And the other one that I am a little bit concerned about is Maui County, like most other private and county agencies, require the contractor to guarantee their plant material for 90 days or longer. And we're only allowing them to irrigate for 60 days. And I think you're going to, there's some liability issue that if the plant dies after you restrict the water there could be something that would come back and haunt you. You might want to consider stretching it out to whatever the specifications are in the, that the County is requiring of them.

CHAIR ANDERSON: Thank you, Allan.

MR. SCHILDKNECHT: Thank you.

CHAIR ANDERSON: You know, that they can go out with a handheld hose and water at any time.

MR. SCHILDKNECHT: That's true, but that's a lot of hand watering especially, even turf takes about a minimum 60 days to get established good. And you sometimes --

CHAIR ANDERSON: Well, 6. . .

MR. SCHILDKNECHT: --need that daytime water during that time.

CHAIR ANDERSON: Sixty days is...

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. SCHILDKNECHT: It's a lot better than 30.

CHAIR ANDERSON: Yeah. And, and are you with an irrigation company?

MR. SCHILDKNECHT: We are an irrigation design consultant firm. We're certified irrigation designers. We're a member of the EPA Water Sense, a member of the ASLA and the ASID.

CHAIR ANDERSON: Okay. We appreciate your coming all the way from Kaneohe. Any questions, Members? Seeing none, Andre is next, and I'll let him, he's from, he's a sales rep with...

MR. ADOLOFFO: HISCO.

CHAIR ANDERSON: Which stands for?

MR. ADOLOFFO: Hawaii Irrigation Supply Company.

CHAIR ANDERSON: Hawaii Irrigation Supply Company.

MR. ADOLOFFO: Yeah, and the last name is Adoloffo. It's an Irish name. Just kidding. Okay. I'm here because I think water conservation is good. Some of the facts that we need to really take into consideration are that 2.5 percent of the world's water supply is not salty, and two-thirds is located in the ice cap. Of the water that is left, you will have available about .08 . . . *(change tape, start 1B)*. . . percent and out of that, 58 percent of that is used in irrigation. An average typical household in the United States uses about 146,000 gallons of water. Inefficiency of water usage is, is a major problem.

Right now the National Drought Mitigation Center, through it's support system called DMDSS, has pretty much classified Hawaii as normally dry. I believe that some of the statements made here by the first gentleman about desalination water systems and also being more conservative in terms of, you know, how many minutes, you know, we use our irrigation system is, is an answer. I also believe that, the fact that this bill is going to be passed is an incentive as stated by you to make people understand that there is a major problem that we are facing today. This might be kind of a tough lesson to learn that there is a fine to be imposed if there is a violation. And I think education should be also a very strong implementation process to make people understand what's really going on.

And lastly, I do believe strongly in drip irrigation. I think that, as stated, you know, is a way of conserving water. And a lot of people don't understand what drip irrigation is. It's more than meets the eye. There is sub-surface and on-surface drip irrigation. Any questions?

CHAIR ANDERSON: Are you through?

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. ADOLOFFO: I'm through.

CHAIR ANDERSON: Andre, thank you. Any questions, Members? Andre, please we have a question for you. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Andre. You mentioned that there were two kinds of drip irrigation. Does our bill exempt both or? I'm just trying to be clear here. Would you think one or the other or?

MR. ADOLOFFO: Well, they exemplify drip irrigation and that entails, you know, various forms of drip irrigation. That the reason why it's classified as drip is because, you know, like, again it conserves, you know, more water than any other system that has been implemented so far.

COUNCILMEMBER BAISA: Is one better than the other?

MR. ADOLOFFO: Based on the studies done, one is better than the other. The major problem, as stated before, evapotranspiration is a major problem with the, the system, you know, systems that, you know, we use right now through nozzles and sprinkling, you know, systems. So one is better because the water is pretty much maintained in the surface. It's not exposed to air or, or solar, you know, heat intensity.

COUNCILMEMBER BAISA: So if we're going to exempt drip irrigation, is that sufficient or should we say a specific kind?

MR. ADOLOFFO: Well, I, I believe that there should be, you know, variables involved depending on, on each case. But there is, there are alternatives, you know, for drip irrigation.

COUNCILMEMBER BAISA: Clear as mud, but that's okay, thank you.

CHAIR ANDERSON: So, Ms. Baisa, the intent is that drip irrigation is drip, drip, drip whether it's expelled sub-surface or on top of the, the ground. It's drip, drip, drip. It's not spray. So that's why I didn't define it any further, because, you know, it's not our intent to, you know, make this really difficult for people. We just want them to see that there are ways of using our water that's not wasteful, and we want to encourage that. So maybe down the road there might come a time when the overall conservation bill gets into those more detailed ways of going about irrigation. Dan Honma, Makena Golf Course and the Maui Prince Hotel, followed by Juan Gutierrez.

MR. HONMA: Good morning.

CHAIR ANDERSON: Good morning.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

MR. HONMA: Can you hear me? My name is Dan Honma. I'm with Makena Golf Course and the Maui Prince Hotel. I guess the golf course, it's great news to hear that we may be exempt from the requirements, but we needed one clarification. The reuse water blended with ground water. I guess once it's in one holding reservoir that would constitute just reuse then from there on? Because right now we have, you know, a separate source of effluent blended with reuse along with fresh, I mean not fresh, ground water, brackish water. So I was just kind of wondering what the definition was on the pure effluent that you stated.

CHAIR ANDERSON: So you guys use effluent from your own sewage treatment plant?

MR. HONMA: Correct.

CHAIR ANDERSON: And you mix that with potable water?

MR. HONMA: No, with brackish water.

CHAIR ANDERSON: We'll have to think about that and thank you for bringing that up.

MR. HONMA: Okay. But...

CHAIR ANDERSON: But you use that on the golf course; right?

MR. HONMA: Sure. Right.

CHAIR ANDERSON: So that really, unless the Committee feels we need to include golf courses that would really be exempt.

MR. HONMA: Okay. I guess most of my comments would be just in general. I think water conservation is really essential. However, you know, education I think is a big part of it. And for us, I think, if you can actually come out and educate individual employees, that probably would be the most effective way for us to get the word out and get the point across.

Incentives I think might be another thing we should look at as far as, you know, if you're converting a system using smart technologies that, that was brought up, you know, with sensors and weather stations. I think there should be some consideration in that respect. I hate to see any restrictions put into place where it would discourage the use of these items and tools. And I think, you know, to me I think a percentage reduction probably work better as far as flexibility for the user. However, you know, if we're stuck with a two, two-day or three-day restriction, then it gets a little bit more challenging. That's pretty much it. Thank you.

CHAIR ANDERSON: Thank you, Dan. Members, any questions? Mr. Pontanilla.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mr. Honma, for being here this morning. The golf course you do utilize blended recycled water as well as brackish water. How about the hotel grounds itself? Do you use the same water?

MR. HONMA: No, we're currently on a potable system.

COUNCILMEMBER PONTANILLA: Potable system. You guys looking at probably extending the recycled and brackish water system to the hotel grounds?

MR. HONMA: Yeah, I think there's plans in the future to utilize whatever we can, whatever we produce and use it for the, yeah, landscaping lawns.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR ANDERSON: Yeah. Mr., excuse me, Mr. Honma, do you know what percentage of brackish and effluent you use?

MR. HONMA: Gosh, it's only like less than a percent right now.

CHAIR ANDERSON: Less than a percent of the brackish?

MR. HONMA: Correct.

CHAIR ANDERSON: So it's like 99 percent effluent?

MR. HONMA: I'm sorry, no. It's one percent or less than a percent effluent.

CHAIR ANDERSON: Okay.

MR. HONMA: Yeah.

CHAIR ANDERSON: Well, then I don't know that you would really qualify as 100 percent effluent.

MR. HONMA: No.

CHAIR ANDERSON: Okay. Thank you. Ms. Baisa.

COUNCILMEMBER BAISA: We were thinking along the same lines, but a little different twist for me. How much of the water that you produce, that recycled water, do you use?

MR. HONMA: A 100 percent.

COUNCILMEMBER BAISA: So everything that you produce you can use?

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. HONMA: Correct.

COUNCILMEMBER BAISA: Wonderful. That's good. Thank you, Chair.

CHAIR ANDERSON: Thank you, Mr. Honma. Thank you, Ms. Baisa. Juan Gutierrez, followed by, and Juan's come all the way from Lahaina, followed by Ken Ota.

MR. GUTIERREZ: Good morning, everybody. I just want to keep it short. I moved here from Florida. I worked there for close to eight years, and I applaud the efforts to water conservation, but I do think that uneducated people running unefficient [*sic*] water systems three days a week, two days a week, or seven days a week doesn't fix the problem. I think we need to concentrate in how to make our irrigation systems more efficient and how to educate the people running those systems, so we have a better way of fixing this problem. Running water three times a week with an unefficient [*sic*] irrigation system and not knowing how to run your water you're still wasting water. And that's, that's all I have. I think education and making our systems more efficient is what makes a difference. And also from personal experience not determine the days in which you can water, but the percentage of, of water usage might also help with this problem.

CHAIR ANDERSON: Thank you, Mr. Gutierrez, and who do you represent?

MR. GUTIERREZ: Kapalua Land Company.

CHAIR ANDERSON: Okay. Thank you. Members, any questions? Mr. Pontanilla, followed by Ms. Baisa.

COUNCILMEMBER PONTANILLA: Thank you. Thank you for your testimony. One quick question. On the irrigation system like say for not only Kapalua but maybe for the rest of the hotel areas, how can you guys inspect your line to make sure that, you know, you're not wasting water?

MR. GUTIERREZ: Well, there's, there's different ways to go about that. First, we all have to make sure we don't have any, well, I think personally one of the biggest ways of wasting water is having leaks in your irrigation system and that's why it may make your irrigation system more efficient. The first thing we have to find out is make sure you don't have any leaks in your lines especially when you're talking 15 to 25 year old irrigation systems.

Secondly, you know, installing water stations, which tells you the ETA for the day. The evapotransporta...evaporation of the water. You know, inspecting on a daily basis which is what we currently do on our golf courses. So I, I firmly believe that making the irrigation system more efficient and educating everybody on that will, will aide to help the problem and, and also creating percentage reductions instead of days of water.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Thank you, Mr. Pontanilla. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much for being here. Can you tell me how much water the hotel actually uses?

MR. GUTIERREZ: I could probably give you a better idea by, by acreage.

COUNCILMEMBER BAISA: Okay.

MR. GUTIERREZ: On about 100 acres we could use 50,000 gallons if it's dry, and hasn't rained, and we need to water all our landscaped areas. That's not including the golf course. That's just the landscaped areas throughout the resort, 50 to 80,000 gallons of water.

COUNCILMEMBER BAISA: Okay. The reason I'm asking you that question is I'm, in the back of my mind I'm trying to deal with a financial approach to conservation, and it's obvious that if you're going to pay more you may use less. And, you know, our water rates are quite generous. They vary from \$1.60 for up to 10,000 gallons to \$3.90 for above 30,000 gallons per thousand gallon. So really it's not that expensive. And in the back of my mind I'm thinking maybe some incentive would be a financial incentive. You use more you pay more rather than the days and all that stuff.

MR. GUTIERREZ: And adding to what you're saying I think that's a great idea because when you do a cost analysis, you know, we work in the resort business and anything that we spend we have to prove, you know, if it's, if it's reasonable for the resort to, to spend that money or for the golf course. So the day that it becomes cheaper for us to make the improvements to the irrigation system instead of using the water, because now the water has cost more money. I think that would be a good idea also.

COUNCILMEMBER BAISA: Well, what I'm also thinking about is, you know, it was mentioned earlier I believe by...

CHAIR ANDERSON: Ms. Baisa, do you have a question on his testimony?

COUNCILMEMBER BAISA: Yes, there's, yes, there is a question here, and it's a financial consequence. You know, if we're going to do this, there might be an alternative without having to go through all the hassle that we're going through if it was financially rewarding or not rewarding. If you overuse you pay more, if you under use you pay less.

CHAIR ANDERSON: Well, that's something that we can discuss when we get into discussions. He didn't address financial incentives, so we have to stick to the testimony that people --

COUNCILMEMBER BAISA: He's going to, --

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: --give us.

COUNCILMEMBER BAISA: --he's going to have the answers that we're going to need, but that's okay, I'll drop it.

CHAIR ANDERSON: Well, if, if you want to ask him a specific question, I'll allow that, but any discussion will come after testimony.

COUNCILMEMBER BAISA: It's all right. I'll let it go.

MR. GUTIERREZ: Thank you.

CHAIR ANDERSON: Thank you. Our next testifier is Ken Ota, followed by Ernie Rezens. I'm just trying to be fair to everyone, Ms. Baisa. Questions on the testimony. Mr. Ota.

MR. OTA: Good morning, my name is Ken Ota from ISI Hawaii. We are in the landscape and irrigation business for the last 23 years. Some of the concerns we've had, I, I think what the most positive part of this bill coming out is just getting everybody involved in conservation, and I commend for the Council Members to get, putting this up. We have a lot of work to do, but I guess it's a good start.

One of the biggest things that we've seen in our industry, again, is the, the lack of, of just the education, of just getting out to the public, and all the, if it's the hotel industries, or the farmers, the nursery men. They've all have to come into reality that it is a precious resource. However, we haven't started off going, involved in the education side. We've started off from no conservation to a bill that restricts and limits the amount of water and the days. I think we've addressed some of the concerns from the golf course. I've liked the bill regarding on when to water, I mean the time of water. However, the concerns we'd have is the frequency of the week, but it's a start.

We, we still have to, I, I think talk to the growers of what the growers can utilize on the plant material, get them involved. You know, Dr. Kaufman from the University of Hawaii I think has some comments coming out regarding plant material. We definitely have to get some of the things that we know that can work in a drier climate. Drip irrigation, for one thing is a great start. We've had so much different hotels that have invested with plant material, and I think, Michelle, you, you've gone to Grand Wailea to look at some of their scenarios and worked out some of their concerns. You know, the, the two day watering for the, the general public I think has to be worked on where it has to be rewarded for the end users. We definitely have to be able to work on the consumption and not the days. I think that would be a great deal, but it's a great start to start off a conversation on conservation. Thank you.

CHAIR ANDERSON: Thank you, Mr. Ota. Members, any questions? Seeing none, thank you. Ernie Rezens, followed by Warren Shibuya.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. REZENTS: I hope my time hasn't begun. Good morning. I'm Ernest Rezents, and I speak for myself along with the many gardeners who are not here today. I am a lifetime gardener. Plants do not grow well to legislative irrigation frequency; two times a week, three times a week, et cetera. Wintertime I don't irrigate if it's rained. Summertime I irrigate every other day. Water stressed plants attract millibugs, white flies, and mites. These are very difficult to control. You have to spray, which I don't like to do, or pull out and throw away, or cut back to sticks.

The methods of watering is ridiculous. This authorized dispenser, the trigger nozzle given by the Water Department is cheap. It breaks apart, delivers very little water, and takes a very long time to water. This one is excellent, good volume, so strong, the plants flatten out. This one is great; good water delivery, gentle, but the off and on is cumbersome. My thumb has worked for 60 years and if I continue I have to water at night, impossible.

Now, controlling water waste is commendable. I congratulate you. Now, the way to do it is education, like, mulching plants, grouping plants with similar irrigation needs, growing healthy plants, repairing leaks. Now, you don't have to hire water cops. Right now the Department gave me 500 gallons per day, and when I exceed that they send me a notice. The water cop is the water meter. So you're going to save water. Put your resources to developing new sources of water and storage. I have been on the list for a water meter for years, and I continue to be 998 and 999 or thereabouts on that list, but I see hundred of meters being dispensed, so there must be water. And in talking with HC&S officials they tell me there's tons of water underground on East Maui. So we got to dig our own wells and not depend upon the private developer to do so, because they're getting the water, and I'm not, but I'm paying the taxes to pay the electric bill to man their pumps. That's all. This bill is not the way to approach it I'm afraid, but there are many other good ways. Education is important. Thank you very much for your time.

CHAIR ANDERSON: Thank you, Mr. Rezents. Any questions, Members? Seeing none, thank you. Our last testifier is Warren Shibuya.

MR. SHIBUYA: Mahalo, Chairman. I want to comment here on the proposed alternative. I know that this is an election year and times are financially stressing, but we must find improving water catching, storing, treating, delivering quality water to all of our users where possible, and generate electricity making savings to operating costs. We must begin today our journey to sustain ourselves.

I want this Committee to establish a landmark water investing legacy by raising water rates to buy and improve Maui Nui's watersheds and ensure water resources are effectively managed and distributed. Council must structure and adopt an accelerated rate schedule to finance priority water resource development projects.

I'd like to take a look at this proposal. Proposed alternative customers using this water is rationing. Your alternating days in which you use the water is simply rationing that is

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

very invidious. It's unintended consequence is rationing method makes neighbors turn in neighbors and, for not complying. Proposed alternate day rationing law is divisive and will destroy the Maui Nui ohana and aloha. It may work on the mainland, but not good for Maui ever. We need to look at the bigger picture. We cannot bring glaciers to Maui. We have moisture all around the island and the cool air in the higher elevations actually bring that moisture right into the ground. We've decimated our forests who are up in the higher elevation areas, and they capture this.

I'm part of the Auwahi Forest Restoration Group and when we plant these native trees, restoring the sandalwood, ohia, and koa, they actually are wet and some of you may want to come up and visit sometimes our, our growing areas. We have a natural way of catching and recharging our aquifers. It can't solve our drought today, but our children's children can benefit from this, and I think we start looking ahead and investing. We need to put the money in now. I know it's financially tough, but it's going to be tougher when we don't have water, we have polluted water. So this accelerated financing must be implemented today. Thank you.

CHAIR ANDERSON: Thank you, Mr. Shibuya, for being here. I'm just wondering if, if you realize that water rates are a restricted fund and that we can't use our water rate fees to finance development projects. In other words, that's asking current users to fund the development of new source for new users.

MR. SHIBUYA: No, it's a matter of developing so that the users have adequate amounts of water. It's not in terms of developments. It's making sure that we have adequate amounts now. Today we are not even providing enough water. So it's not added developments. We can't even support and sustain our current population.

CHAIR ANDERSON: Yeah, I agree with you, but I'm just pointing out to you that the way the County Code is written right now our water rate fees are a restricted fund. And so, we, we're not allowed to use that money to develop new source. The water system development fees are meant to develop new source.

MR. SHIBUYA: With all due respect, revise it, change it, amend it.

CHAIR ANDERSON: Okay. Thank you, Mr. Shibuya. Any other questions? I appreciate you being here.

MR. SHIBUYA: Thank you.

CHAIR ANDERSON: Okay. Anybody else would like to testify? Come forward please. You can testify, and then sign up afterwards. I'm going to close testimony after this testifier. If anybody else wants to testify, now is your time to come forward.

MR. MITCHELL: Thank you very much, Madam Chair, Members of the Council. My name is Bill Mitchell. I'm the principal landscape architect and Vice-President of Chris Hart and

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

Partners, landscape architects and planners here on Maui. Ken was nice enough to send me a draft of the bill last week and asked me to come to the meeting this morning. And I think I'd just like to echo what everyone else has said in, in that I don't believe this particular bill and the language that's in it really addresses the larger issues of water management in the County of Maui. That we do have the opportunity to, to create a water policy that would encompass not only irrigation management, but other types of water use and, and the resources that we have in the R-1 water and some of the other, some of the other resources that we have that aren't being totally used to their capacity right now.

So in, in sort of being involved in irrigation and, and planting design for the last 20 years both here in Hawaii, and in California, and Idaho, and Arizona, I think, you know, the technology has drastically improved. It's just radically improved in how we deliver water to plants, but that isn't being totally utilized in the industry, and we know that because old projects are just radically inefficient and a lot of the hotels just really use a lot of extra water because their irrigation systems haven't been updated, but they are in the process of doing that now. And in fact, we're working with a number of the hotels in bringing their irrigation systems up to current technology to water use and savings.

I think the one suggestion about, you know, water rates and reflection of how much someone uses as an incentive to use less water is probably a better approach in that you actually get people to buy into using the most current and efficient technologies to save that water. So any questions I'd, I'd be happy to take those.

CHAIR ANDERSON: What was your name, again, Bill Mitchell?

MR. MITCHELL: Bill Mitchell, correct.

CHAIR ANDERSON: Thank you, Mr. Mitchell. Any questions? Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mr. Mitchell, for being here this morning. You said that you're a landscape architect.

MR. MITCHELL: That is correct.

COUNCILMEMBER PONTANILLA: In your business the type of plants that you, I guess, plan for development are, are the plants, local plants, water tolerant or, you know, plants that are nice to look at?

MR. MITCHELL: I, I'd say there's a balance of each, but in the last five years there's really been a stress on low water use and native plants. And as Allan, and Ernie, and a couple of people have, have stated, the real key to efficient landscape design and water management is getting plants that have equally compatible water usage, and then designing an irrigation system around that that delivers the water to those plants in the most efficient fashion. Unfortunately, turf grass is not efficiently watered with drip

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

irrigation. It's an overhead system, and you lose a lot of water to evaporation. Where shrubs and ground covers, and some of those types of plants can be very efficiently watered with drip irrigation. So it's a hybrid balance between, you know, what is the best and the easiest way to deliver that water source to the plant and that's the ET or evapotranspiration of a given plant material.

I think in the industry as far as landscape architects go there's, there's certainly an awareness throughout the industry that we have to do this, that it's, if, if nothing else. To serve our clients we are trying to do and design systems that are to the maximum of efficiency and also provide the aesthetic requirement that the folks are looking for.

COUNCILMEMBER PONTANILLA: So when you do your design, in my mind, you know, I've gone to Las Vegas, for instance.

MR. MITCHELL: Right.

COUNCILMEMBER PONTANILLA: And some of the properties in Las Vegas they do design for only a certain percentage of greenery for the property. Is that some kind design that you guys do --

MR. MITCHELL: It is...

COUNCILMEMBER PONTANILLA: --in regards to trying to balance this thing?

MR. MITCHELL: In Las Vegas, and I worked in Phoenix, Arizona for a number of years. Those are real desert climates and really the emphasis there is xeriscape. It's a completely different way of looking at the landscape, and you're using much fewer plants and much more water efficient plants. Unfortunately, and I was always surprised when I came here 17 years ago, that there was no water management at all in the landscape in Maui County for virtually what is close to being a desert on most of the island. But in direct answer to your question, we do. We, we really look at using the most effective plant material for a given aesthetic location. And a lot of times, and it's part of an education system that we have to bring to our clients is that Maui County is primarily a desert, and if you want a tropical jungle it's going to cost you more in water and maintenance to create that.

COUNCILMEMBER PONTANILLA: Thank you. Thank you for your comments. Thank you, Chairman.

MR. MITCHELL: Thank you.

CHAIR ANDERSON: Thank you, Mr. Pontanilla. Any other questions? Thank you for being here.

MR. MITCHELL: Thank you very much.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

...**END OF PUBLIC TESTIMONY**...

ITEM NO. 14 WATER CONSERVATION (MISC./C.C. No. 05-273)

CHAIR ANDERSON: I think the operative word is that Maui is primarily a desert. . . . (*change tape, start 2A*). . . Before we get into the bill I want to give us some background information.

All of you received a copy of the PowerPoint. We, we doc trans'd that. The Amy Vickers PowerPoint that we got in February, and I just wanted to bring that to your attention. The measures that we have in this bill are not necessarily fashioned after any other ordinance. They are primarily fashioned on the needs that we have in trying to make people understand that we have a limited resource, and we have to use it wisely. Yes, we have to conserve it. If we can maybe, what I wanted to do is show some, not the bill, but the overhead handouts which I think we're going to have to dim some lights. And, and I'm just doing this, Members, because I think we have to underscore the need for taking these measures, not only to remind ourselves because it's difficult when there's so many people who felt threatened by any kind of restrictions at all. But we also want to make the public aware why we are in this situation, or why we're in this meeting today discussing water restrictions.

Where's the first slide? Members, the slides that we, we're showing, you have a handout. There we go, and it looks like that. It has a blue heading on it. Members, these were passed out this morning, and I am just now looking at them. Do you have, like, multiple copies of this?

COUNCILMEMBER PONTANILLA: Yes.

CHAIR ANDERSON: Okay. That's not what I meant to have happen, but nonetheless, we'll work with it. Okay. So this first slide was updated May 6, 2008 from USGS. They have various testing stations, and what I'm showing you, this all has to do with the central source. You can go ahead. That's just a title page so you can understand where this is coming from.

What this shows is water levels. This is in a test well. That red line indicates water level. So you can see that the water level over, since 1984 to 2008, the water levels are dropping. Kim.

MS. WILLENBRINK: Again?

CHAIR ANDERSON: This is the Waichu deep monitor well, again, indicating water levels dropping. And this is another test well that they used for monitoring. Oh. . .

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MS. WILLENBRINK: I can go back.

CHAIR ANDERSON: From 1984 to the present showing again water levels dropping. Okay, Kim. What this shows, this is a chart that shows the transition zone between the, the salt water and the fresh water, basically the transition zone, and it shows that the transition zone is rising and narrowing. This is from '85 to '08. And why is that important? Because that means that we have, and that's what the previous chart shows that the, the sweet water level is dropping, and the sea water is rising, and the chloride content is increasing in the brackish lens. Next one.

That's not really the one I wanted. Is that the only one you have on rainfall?

MS. WILLENBRINK: That's, there's one more slide after this.

CHAIR ANDERSON: Why don't you go to the next one and...

MS. WILLENBRINK: Okay.

CHAIR ANDERSON: It's probably the one that I really wanted, yeah.

MS. WILLENBRINK: I thought they were...*(inaudible)*...

CHAIR ANDERSON: This is also a slide from USGS, Members, and it shows the rainfall pattern. And I'm really sorry for the size of it, but..., Kim, try see if you can enlarge that? Even once more. Because we don't care about, well, we do care about all the other islands, but that way you can see Maui better. Maybe try one more.

Okay, this map shows historical rainfall pattern and, Members, if any of you want to know, or any of you people in the audience who want to have more detailed information on this I think what we will do is put the links to these sites on our, on our Committee's website, so people can go and look at this. These are all from USGS. But the chart shows a trend in annual rainfall and the one that we're looking at right now is I believe the one from, trends from 1913 to 2001, and there's also maps showing the trends from 1933, 1953, and these are with rain gauges that USGS uses.

And the thing that's alarming, specifically, is the one that is second from the left. That is Puu Kukui. That's the highest point of the West Maui Mountains where we traditionally have the most rainfall in Maui. And even when you look at, again this is from 1913, and the reason I did that is because they have more, they have more stations showing in that map, so I wanted to show the, the overall spectrum. There's also 1953. They only have two stations showing, and then the 1933 one all of them to the present only has three stations. But I wanted to let you know that the station furthest to the right and the one that's second from the left, those stations have been monitored since 1913. And both of them currently show the same, you know, when you narrow the, the, the time of, of

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

testing, even if you only take 1953 to present, it still shows the same amount of decline in annual rainfall.

And I think that we need to be cognizant of this. It's not going to get any better. Rainfall is declining and Puu Kukui feeds the aquifer, you know, feeds the stream flow that comes down that helps feed Iao Aquifer, Waiehu, Waihee; all of these aquifers that we draw groundwater from. So as the rainfall diminishes, the water levels in the aquifer are not getting recharged to the point where the water levels are dropping. So that is why we're taking some measures here. I don't want people to think we're being draconian just because we want to, you know, feel good about conserving water. I think that we are taking a responsible step not only for current use, but also for the next generation, for our children so that they would have the opportunity to use beautiful fresh groundwater from Iao like we can.

So I know it's kind of eye opening to see these, but I think it was necessary to let you know that there's scientific reasoning behind what we're doing here. And those of you in the irrigation business you may feel threatened, but we're protecting your industry by taking these measures, and we're also protecting the hotel industry by taking these measures, because we have to start looking at water as a very finite resource that has to be used in a very wise way. Otherwise, we may be in the situation that areas such as Arizona, Southern California, where they have the worse drought in 500 years. They have conditions there that are worse than the Dust Bowl years. And so, they are taking very drastic measures. You know, not only some golf courses are required to have a 30 percent reduction in use, but they're also requiring some golf courses to not water their, their fairways at all or their roughs and to tear out a certain percentage of the greens and put in natural xeriscaping that requires no irrigation.

So I thought it was prudent to show this so that everyone understands that we are in a, in a serious situation, and it's not just a drought, it's an overall trend in the rainfall pattern and there are no indicators that it will get any better. As a matter of fact, there are studies done by NOAA that indicate the climate pattern in Hawaii is going to be changing drastically in the future. And, and we're not certain what that's going to be, but it, you know, it, it's going to be worse than it is now. So either we get water wise now or we pay the price later where..., I mean there are some areas in the country, people, where you can't water outdoors at all during the summer. Where you can only water one day a week. And, and I certainly don't want us to get to that point, and I, I know none of you do.

So that's why I'm bringing all this information forward. Any questions on any of these slides, Members? If you'd like us to go back to any of them? Okay. You know what's interesting? You see all those red lines, indicates significant downward trend. Look at the two blue ones towards the bottom of Maui, that shows a significant upward trend which would indicate a change in rainfall pattern. So we can't really count on the past to predict our future. There is also on the Committee's website the climate change study that was done by, I know it's in our binders somewhere, Members, I don't have it passed

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

out today. It was either done by NOAA or USGS. I think it was NOAA. And it shows a dramatic change in, actually I take that back, it shows a prediction of rainfall pattern changes based on climate change. You can call it global warming or climate change, but it is here. It's not going away.

Okay. So, Members, I think what we should do now is take our break.

COUNCILMEMBER MATEO: Madam Chair?

CHAIR ANDERSON: Yes, Mr. Mateo.

COUNCILMEMBER MATEO: Thank you. Is, is there a reason why we're just looking at the main islands, because water shortage and water limitations --

CHAIR ANDERSON: I know, I apologize.

COUNCILMEMBER MATEO: --is existent throughout. So in Maui County, you know, we're, we're leaving out the two sister islands that also experiences water difficulties.

CHAIR ANDERSON: Yeah, I, I'm sorry, Mr. Mateo, but, and I would like to show Molokai, but unfortunately, they didn't do the study for Molokai.

COUNCILMEMBER MATEO: Oh.

CHAIR ANDERSON: So there's no charts for Molokai, but, yeah, that doesn't mean that there aren't rain gauges on Molokai that would indicate that you're also suffering from a downward trend in rainfall. It's just not part of this study and there were no charts on Molokai. Okay. Members, any other questions? Okay. I think what we'll do is we'll take our break, and we will return at 20 minutes to 11:00. Water Resource Committee is in recess. . . .(gavel). . .

RECESS: 10:27 a.m.

RECONVENE: 10:54 a.m.

CHAIR ANDERSON: . . .(gavel). . . Okay. The Water Resources Committee meeting of August 18th is now reconvened. Thank you, Members, for that break. It's time to take in some of that sobering information. So I think what we'll do is probably just go through this bill, item by item, and anyplace you have questions or comments, please just interrupt, because I'll probably be looking at the wall or at my papers, so I won't be watching for hands. So, Members, just speak up, and I'll stop and recognize you.

Before we get started I, I do want to point out that we did doc trans to your binders under WR-14, a printout showing water consumption for Maui hotels. This, of course, is Department of Water Supply figures, so it will not include those hotels that do not use

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

Maui County water. But I thought it was important to show the consumption between May, June 2007 and May, June 2008. I think I doc trans'd this last week, Members, so it's probably got a coversheet on it.

And maybe we could address Ms. Baisa's concern before we get into the bill regarding water rates. You know, I, I did think about that, I didn't look at it. We increased our water rates for the third tier, and I guess in all fairness they only became effective July 1st. Director Eng, on the third tier our water rates went from 3.50 to 3.90 for anybody using over 30,000 gallons.

MR. ENG: Yes, that's correct.

CHAIR ANDERSON: And was that only during this last budget session, so this was not effective previous to July 1st?

MR. ENG: That is correct.

CHAIR ANDERSON: Okay. Again though, Members, that's a 40 cent increase per thousand gallons. So, Ms. Baisa, would you like to comment or make, you know, address this issue of, of rates? I mean my feelings, and I, I'm just going to state it right out, I don't think water should be a commodity that only those with the money have unlimited use of, because it's, it's a commodity, it's a resource that is limited, and we should have fair and equitable use of it. I, I am recommending that golf courses be exempt from this bill primarily because that is, you know, they're a commercial entity, that's how they make their living is having a green golf course.

Now, there may be a day that may come where we might have to put some strict restrictions in place like they have in very many jurisdictions across the United States, but hopefully we're not at that point right now. And so that's why I didn't take a rate approach to this because I think those who use the most water can afford to use the most water and if we increase the amount I don't know that it's necessarily going to make any difference to them, but I'm just following what industry-wide, conservation industry-wide is the standard for implementing conservation of water use. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Thank you for that comment regarding exempting the golf courses. I was reading the Wailea Community Association's letter in regards to their conservation plans for Wailea development, and I see there's a lot of good things in their strategic planning, and they had set some goals. And I don't know how this bill is going to affect their conservation planning for that particular area, the Wailea area. In reading this, you know, it's kind of informative in, you know, things that they want to do to conserve water. So, you know, as we move forward on this bill, you know, exemptions is good. I, I don't know if we should exempt, you know, some of the entities that may have plans already ongoing or are being planned such that, you know,

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

maybe we can learn from those, you know, plans that they do have like Wailea Community Association. All we need to give them is some time.

CHAIR ANDERSON: Yeah, I can appreciate that, Mr. Pontanilla, but if you would also look at the letter from the Grand Wailea they have already implemented a lot of these measures, and...my finger on their, on their letter. The same measures that Wailea Community Association is working on they have already implemented those measures at the Grand Wailea, their letter of August 11th. And, you know, they talk about other things besides outdoor irrigation as far as pool filters, and cooling towers, and all that. But they've already put in a state of the art irrigation system that they're also going to upgrade that takes into account ET, and evaporation time, and rain sensors, and all of that.

And, as I said, I spent quite a deal of time, deal of time with them on Friday, and we went over all of the bill. They showed me what they've been doing on their grounds as far as taking out ground cover that is water intensive and putting in water tolerant plants, native ground cover. And they also showed me where they are bringing in mulch that you can actually decrease the amount of water needed by bringing in organic compost. And not just a little bit, you know, bring in a good inch, two inch of compost and that helps retain the water. So, and also changing out to drip irrigation.

So I, you know, I asked them. They, they, they feel that since 2007 to 2008, they have realized a 13 percent decrease in their outdoor irrigation watering consumption. But they feel that they can comply with this bill. Their one concern was large lawns or turf, turf areas. And I think that that's fair that we give some leeway because their scheduling is different than, I mean their scheduling depends on, a lot on guest services. So I don't know that we can really hold them down to specific days. They've got to be able to be flexible.

But, again, the idea behind this is to put something in place, see how it works. If there's problems, I guess we'll have to deal with them when they come up, but it's all about change and adapting. And I know people don't like change, but you saw what we're facing here, and the standard in the conservation community and, again, Members, Ms. Vickers is a consultant nationwide as well as with the EPA, the Water Conservation Alliance. She told me that this is not going to be easy because people don't like to make change. But once they do, then we realize savings and many jurisdictions have realized savings in water that have saved them in having to spend money to develop new sources, at the same time, allowing for new growth.

So you use your water more wisely, in a more conservative manner. You don't have to expend money to develop source, new source. In other words, you're saving money. You're also allowing for new growth with the water that's being saved and you still have a savings. Something like Boston itself had realized a 30 percent savings in their water over a five year period even allowing for continued growth just by implementing these water conservation measures. And, and I'll talk a little bit, I'm going to let Ms. Baisa speak now, but I, I do want to talk about the, the mandatory watering schedule, why

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

that's better than percent reduction. Again, by experts in the field, where there have already been these types of schedules implemented and studies have been done to show what the effects are. Ms. Baisa, did you want to talk about. . .

COUNCILMEMBER BAISA: Yes, please.

CHAIR ANDERSON: I'm sorry.

COUNCILMEMBER BAISA: I forgot what I was going to say. Let's talk about that ordinance and the resistance to change. I don't have a resistance to change, and I like the idea of saving water. Heaven knows I represent Upcountry that is probably most affected by water or a lack of water. But I see that there is another opportunity here that will give this ordinance some teeth because in looking at the section on enforcement, which we have not had the opportunity to, to discuss as of this moment, I am concerned about how that's going to work. And I, I have doubts about, you know, how we're ever going to catch anybody if we're not looking at the amount of water that is used and putting some kind of restriction in that area, or a penalty, or something. Because we cannot and should not be relying on neighbors to call the Water Department and say, hey, my neighbor is watering on Wednesday, and he's supposed to do it on Thursday. Because what it's going to do is cause a lot of problems in our neighborhoods. And, you know, we are already in a time where there is so much animosity among people that I really don't want to ferment any more of that.

And so, you know, if we're going to have an enforcement or some way to check this, then the amount of water, or as somebody stated earlier, the meter is the best water cop. That's where I'm going. That there has to be some penalty for using a lot of water or over what is normal, and we all know what is normal in the various areas. We've discussed that here in this Committee quite a few times where there's a large consumption of water.

And so for me, if we're going to implement this ordinance, and we're going to say, okay, you can only water on this day and this day, and your water usage doesn't go down, then what have we gained? What have we gained? So if there is a financial consequence, and we say that, you know, you're going to pay a lot more for water over the normal in your area, then I think that has a very strong incentive because nobody wants to pay more. And what I'm worried about is, you know, whether we develop new sources or don't develop new sources, we have a tremendous amount, and I think we need to amend the Code by the way, so I'm aware of that. I think it's very, I don't how we ever got to where we are that we can't use the proceeds from water use to build our system and replenish our system, and fix our system and develop . . . *(change tape, start 2B)*. . . new systems because we are in this growth pattern here in Maui County whether we like it or not. And how are we going to do that without water, I mean without money? We need money to do it.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

So we got to have sources of money to do it and the General Fund cannot, cannot absorb all of it. So I think we need to have revenues. This would come from people who pay more. And you heard the testimony this morning from a lot of the people who are the big users, and they're willing to pay more to help us have more money so we can fix our system, maintain our system, pay our workers, and do whatever it is we have to do.

So I'm concerned that this strictly kind of, of voluntary approach, even though it's a law, who's going to enforce the Tuesday, and Wednesday, and Thursday, and Friday or whatever? And then when you have somebody who is an expert in our community, who we don't even have to question the qualifications of Ernie Rezens, who is so well respected and has a good background, and he's concerned, then I'm concerned.

CHAIR ANDERSON: Well, I guess all I can say about enforcement is that there will be, the Department will be looking to enforce this. We already discussed that, people in the field. And, yeah, I'm with you, Ms. Baisa, I don't want people to have to fink on their neighbors but, on the other hand, I don't know how many of you people, and you just mentioned yourself last meeting, how it was irritating to drive by and see water running down the road. So...

COUNCILMEMBER BAISA: But I'm not likely to call the Department and report my neighbor. You know, my mother who was a wise old Portuguese lady, gave me a piece of Portuguese wisdom. And she said the worse thing in the world is to have a bad neighbor, and it's true. You know, you turn your neighbor in, and you're going to live with that for the rest of your life unless you're moving.

CHAIR ANDERSON: Well, I don't think any of us are anticipating that we're asking people to turn in their neighbors.

COUNCILMEMBER BAISA: Well, how else are you going to police it? The Water Department cannot be sending out water cops to watch who's watering.

CHAIR ANDERSON: Well, let's ask the Water Department. Director Eng.

MR. ENG: Thank you, Madam Chair. Yeah, I've given this quite a bit of thought how we administer this given the lack of staff that we currently have. I think initially as Mr. Kushi educated me recently is it's basically going to be complaint driven which means it would be a call, a complaint to the Department in which we would go out and investigate it. And then based on our, our fact gathering, you know, if a violation, a notice of violation is required, but most likely we would try to take an educational approach first. And, but that's how most communities do it and enforce it, is by, by a call to the Department, a complaint.

CHAIR ANDERSON: You know, I would hope that we would have an education program go out that will show people the reason we're doing this is because we have to conserve our, our water, we have to conserve our source. So I would hope that people would comply

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

just out of being, you know, a good steward, and if they don't, then, then I guess, you know, the way the violations work you get a warning. You get two warnings before you are issued a violation. And I think that that's a way to educate people too. You get a warning notice that says, you know, you're, you're in violation. You're supposed to be watering on a given day, or you're not supposed to be watering in the middle of the day. That's the way to educate people too. Ms. Baisa.

COUNCILMEMBER BAISA: You know, Chair, I came in over the weekend to review all of those materials that we received Thursday, because I wanted to be familiar with them. And one of the locales, and I don't remember exactly which one, reported that they had had only two violations. And so, I don't know that there were only two violations, but they got two reported. And so, that's what bothers me. I want, I really would like to see this tied to some kind of a standard. And if it goes over, then you get a little written thing in your water bill that says, you know, you're using over the, you know, kind of automatic. You know, you're using over the standard for your area. So we would really appreciate it if you would pay more attention with some kind of an educational leaflet along with it. And that might help with this education piece, because I, I am not a supporter of complaint driven systems.

CHAIR ANDERSON: Ms. Baisa, we already do that for areas that have drought restrictions. So when you have, like, a 10 percent reduction, a mandatory 10 percent reduction if you go over it they get, they get a notice.

COUNCILMEMBER BAISA: Well, then maybe you want to tie that into this ordinance as a piece of the enforcement part where, where automatically like when we have a drought or a drought declaration that this would automatically kick in if you go over the standard for your area. But I want to see us really get on to education, and I want to see some alternatives to, to complaints, and then a fine, because I don't think that part of it's going to work. That's just my personal opinion.

CHAIR ANDERSON: Well, that's fine but, you know, we really don't know what's going to work until we implement it. Like I said, the American Water Works Association has provided some case studies where these kinds of watering schedules have been implemented. And, you know, they found that voluntary restrictions don't really work. So until you put in a mandatory watering schedule people don't necessarily..., and I think, you know, there, you know, if, if your neighbor is watering during the day, and he knows he's not supposed to, and all of his neighbors are complying, don't you think, you know, he might think twice about what his neighbors are going to think about him not following the, the schedule that everybody else is following?

COUNCILMEMBER BAISA: You know, I may not have recollect properly, but, or correctly, but I do believe when there are restrictions put on Upcountry that we respond.

CHAIR ANDERSON: Right.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

COUNCILMEMBER BAISA: That's why you said we don't respond to voluntary, but we do.

CHAIR ANDERSON: I'm talking about voluntary watering schedules.

COUNCILMEMBER BAISA: We'll see.

CHAIR ANDERSON: Studies have shown, and this is in, in the handout that we got as part of the PowerPoint, that you could realize a possible 14 percent water savings for an every third day schedule, which is basically what we're doing, or rather every third day schedule. And that a twice a week mandatory schedule generally gives you a 30 percent water savings. So, you know, we have to realize that between 50 to 70 percent of the water consumed is for outdoor irrigation, and not, not necessarily termed essential use. So we want to conserve the water for essential uses. And I'm just going to, before we go on to the bill, unless there's any other comments, I think maybe the best way to get through this, Members, is just to go through the bill and stop where we have problem areas.

COUNCILMEMBER MATEO: Madam Chair?

CHAIR ANDERSON: Hello. Did somebody call my name?

COUNCILMEMBER MATEO: Yeah, Madam Chair?

CHAIR ANDERSON: Oh, Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, thank you. Before going into the bill I would just like to share my own mana'o on the bill itself --

CHAIR ANDERSON: Yes, please.

COUNCILMEMBER MATEO: --and the discussion that has been ongoing. And I'm just going to be real blunt and just go through it in the different segments. One, I think we're all in agreement that we definitely need a conservation plan. That's a given. We've reached that point. I also believe that one of, under the, under the enforcement, one of the initial problems that we have in enforcement is the, the Department's inability to actually monitor. They don't have the manpower, they don't have the time to monitor, and if it's going to remain complaint driven, there is no, there is no appeals process that's attached to this bill. And, and like the last, or the current gas crisis that we're going through now, with the rapid increase of gas itself there has been a reduction in the amount of traffic for the mere point that it's now costly, and in my island over \$5 a gallon. We have limited it.

I, I, I think that the bill lists the, under enforcement, the penalties itself is, is steep enough where a \$500 fine for your violation could be equated to an increase in the cost of water. I, I, I, I kind of like Ms. Baisa's idea of pay for the use and that pay for the use must be extensive enough and severe enough to, to make it, to make it hurt, because the resource,

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

the resource is limited. You know, and, and I listened to Mr. Rezens, and he has, he has been, for me, you know, that guru that we have all listened to. And I don't think nobody, it's not set in stone that we must water just two times a week. I, I think a third day could be tacked onto it for consideration.

But I, I do have a difficulty with the bill itself at this point. I, I need to see, we need to initiate a conservation bill. I don't know if the penalties is rigid enough because, you know, come on, Maui County is a violator. Who is going to slap Maui County with a \$500 fine or a removal of meters? Nobody will. The State of Hawaii is, through the Mokuale Highway, they watering, the water is all on the roadway.

CHAIR ANDERSON: So that's why we want to pass this, Mr. Mateo.

COUNCILMEMBER MATEO: Keopuolani Park. So the difficulty is we cannot implement our own directives, and we're going make everybody else have to be, be governed by it. So we talk about the need to change. We need to change first. We need to set the directives before we start to burden anybody else. And that's kind of my two cents worth.

CHAIR ANDERSON: Okay. I know you were sick at the last meeting, so you may not be aware, but the Parks Department was here, and they've already implemented their own conservation plan. They're not watering during the day. They're restricting their watering to three days a week, which is why I, I put in playing, and then for playing fields, they need four days a week for the playing fields which is why I put athletic playing fields shall be allowed to irrigate four nights a week. So they're already doing that.

And there is an appeal process in here. It's under Section D-2 but, you know, I'm not going to belabor this. If, if you folks are not interested in going forward with this, then we'll just table it. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Chairman, you know, I, I do commend you in, in trying to get something drafted and, and sent out. And I think all of us here has some questions, but I have a question for Corporation Counsel regarding private wells that were approved by the State Water Commission. How does that apply here? Do we have jurisdiction in, in, controlling their, their water usage?

MR. KUSHI: Madam Chair, Member Pontanilla, that was our office's concern initially, but the Chair has done a great deal of research into other jurisdictions where the law or ordinance passed by the various counties did cover private as well as, public as well as private systems. So, at this point in time, until that type of scenario is found illegal or without justification, our office would back such a proposal.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Yeah, and the reason for that, Mr. Pontanilla, is because it, it all comes from the same source. No matter who delivers it, it's all pumping out of the same source. So I'm going to give Director Eng an opportunity...

COUNCILMEMBER PONTANILLA: Chairman, I got one more question.

CHAIR ANDERSON: Yeah.

COUNCILMEMBER PONTANILLA: Sorry to belabor this, but when Iao was designated how does that apply to the private system?

CHAIR ANDERSON: Who you asking the question of?

COUNCILMEMBER PONTANILLA: Either or.

CHAIR ANDERSON: Either one.

COUNCILMEMBER PONTANILLA: Yeah.

CHAIR ANDERSON: Could you restate the question I'm not really sure?

COUNCILMEMBER PONTANILLA: Yeah, knowing that Iao is, is designated, you know, we, we do have all these private systems that were approved by the State Water Commission. How do we I guess monitor those private wells coming from the same source?

MR. KUSHI: Yeah, Madam Chair, let me try and address that. When Iao Aquifer was designated they had, the users, existing users had two years to get a permit for what they were, you know, from the date of designation. The County did get its permits for various wells, and they issue permits based on wells and the well fields. There's some other private entities that did have private use permits, I mean use for well, well water, well water. And the State Commission on Water Resources requires various reporting requirements, and the Council also, the County also by a bill passed a couple years ago.

COUNCILMEMBER PONTANILLA: Right.

MR. KUSHI: Now, the State Water Commission also designated surface water in the Iao Aquifer recently and those permits are being applied for as we speak and within two years. So the State Water Commission basically has all the information as to what is being taken out or withdrawn from the ground as well as the surfaces, streams. Again, theoretically the State Water Commission since it issues a permit can also modify and conditions, condition its permit. Now to my knowledge they haven't gone into any conservation measures yet. But once you exceed your permit allowance, your permit may be subject to being revoked.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

So that in itself has a governor or a limit as to how much you can use and bills of this type the intent is to have the County stay below what it is allocated. Now to what extent it applies to the private system, unless we had that information, and we have no jurisdiction to yank or revoke their permits.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR ANDERSON: Thank you, Mr. Pontanilla.

COUNCILMEMBER BAISA: Chair?

CHAIR ANDERSON: Ms. Baisa, did you have a comment?

COUNCILMEMBER BAISA: Yes, one more thing before we get onto talking to the Department, you know, in all of this material that I reviewed over the weekend I noticed that in several cases where they have gone into a conservation policy that it is tied to declaring a water shortage emergency, and it kind of seems like it follows this drought bill that you also have here. So if we were to pass the drought bill, then this would be a natural follow-up and that's how it appears in a lot of this other jurisdiction information that you gave us. And then one more comment was that in many of these, like in Long Beach, and Honolulu City Council, and quite a few others, what they've passed is not just a watering ordinance, and you may be looking at that as the next piece of this, but they have a more comprehensive ordinance that talks about not serving water in restaurants, and not washing the hotel linens every day, and not washing cars and, you know, a lot of measures, not just the watering schedule. They passed a more comprehensive thing, and I don't know if that's your intent.

CHAIR ANDERSON: Well, I've mentioned this several times that there is an overall conservation bill that is still working its way through various agencies. We're waiting for them to give us their review. This was something that was developed by the Department many years ago and, yeah, I'd like to get that through, but I don't know, that's even more restrictive than what we're doing here, and it costs a lot of money, because it's talking about low flow fixtures. And a lot of that is going to be implemented over a long period of time. That, again, is going to cost the County money. It's a part of the demand side management program that Carl Freedman is developing in the Water Use and Development Plan. And, yeah, that's something that has to happen.

I mean we have been charged as a Council to develop or to adopt water conservation and while many of you think that this is, you know, drastic. I think this is just common sense use of water, and to me it is a conservation plan that could be implemented very easily without costing any money on anyone's part, just changing your watering habits. So I'm going to ask Director Eng if he would like to say anything about the bill, and then I'm going to ask Members if there's anything about the bill that you can support, so we know, I, I, I think I've spent more than enough time on this in trying to make a difference in

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

how we use water in this County. So if I don't have support for the bill I'm not spending any more time on it. Director Eng.

MR. ENG: Thank you, Madam Chair. First of all, I'd like to express that I, I do support this bill. I believe it's something that we should have had on the books for, for some time. Most communities do have something like this. It is really just a first step to a more comprehensive water conservation plan and also in itself it is educational. I think the Department, if this is approved, you know, we will do all we can to help educate the public. We also believe that this can be amended and tweaked as it recently has in the, in the past few meetings.

If there are some areas that need to be clarified, that need to maybe provide further exemptions, I think we can certainly review them and, and, and incorporate them, but it's, it's, for right now it's, it's, I'd say it's very liberal, and it's not that restrictive. But all I'd like to do is, is see that we do have something in place. Most communities do have some type of anti-water wasting, some type of irrigation restrictions in their ordinances, and I, I believe it's certainly time that we do also. Thank you.

CHAIR ANDERSON: Thank you, Director Eng. I'm going to ask Carl Freedman, he's reviewed this bill, and get his opinion. He's the consultant on the Water Use and Development Plan and, you know, I did ask him to come today as a resource person, and I'd like him to have an opportunity to comment. If you would, Mr. Freedman.

MR. FREEDMAN: Yes, thank you. Well, as you know, I've been working on the Water Use and Development Plans including Central and Upcountry. And one of the things we've looked at is water conservation programs of various types, including some of them that are water restrictions, including economic evaluation of various programs. And one of the reasons we brought Amy Vickers here was basically to review the assumptions and the various measures and programs that we're looking at in, in the Water Use and Development Plan.

So I think it bears, some context is important here and, as you know, there are a number of strategies that might be used over the next 30 years to supply new water source and all of them are very expensive. None of them are going to be easy in terms of some part of the public or some constituency getting rubbed the wrong way. We are between a rock and a hard place. And in some, some context you're going to have to choose between one or the other.

So one of the things that Ms. Vickers pointed out was that in addition to these programs we're talking about, and the demand side management programs they're talking about would be programs that would be funded by the Department of Water Supply and ultimately by its customers to provide incentives for customers to install measures, and we did look at some of the measures that we're talking about here, the evapotranspiration controllers. We looked at a whole gamut of measures. But these are the things that are, would be funded by the Department's customers to reduce water waste on the systems

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

primarily using efficient technologies to reduce the cost of developing new source and to provide water for new growth.

So one of the classic I guess policy issues regarding these types of programs is a look at what part of conservation are you going to implement by financial incentives and what part are you going to do by restrictions or by ordinance. You see the same things with the energy building codes and whatever. And the idea here is that with the incentives you're trying to get people to do what's already in their best interests and is cost effective to them anyway. And the, but there's a question of equity there. Does everybody on the Water Department pay for certain people to put the evapotranspiration controllers there?

So you have, there's, there's a trade off and there's a policy call to be made that if you want people to be doing the right thing that is already in their best economic interest to do, do you do it by ordinance or restrictions so that the people who pay for it are the people who are benefiting from it, or do you use a program where all the rate payers, you know, pay for it for the benefit of the system. So I just wanted to offer that out there as, as kind of a higher altitude policy call that we're going to be faced as we go forward to figure out when we look at all these water use and development plan strategies are we going to put our money in developing new sources, reducing waste, restrictions, demand side management programs, or some portfolio of those.

So I think that this bill falls into that, into a category of, one of the elements that you, you have before you. I think when Amy Vickers was here she looked, we drove around the County, and we looked, and her suggestion about restrict, the two day restriction was just based on her experience in other parts of the country as something that could be done immediately without a lot of financing and budgeting that would have an immediate result. And I think her characterization of this was a little different than the more draconian visions we saw and heard today about everything drying up. I mean two things I guess I should, two or three things I'll pass around from her visit here. One, I think she said very strongly that to go for two days rather than three days, that three days per week does not really result in much savings. If you, the, if you push it to two days that's when you're pushing people to actually change their practices enough to see an actual savings on the system. And the, the ...*(inaudible)*... to eliminate some confusing, every three days is closer to two days a week.

All right. So there, I've heard it said every three days, and I've heard three times per week. Three times per week is pretty close to every two days. She's saying two times a week that would be three four, three four, kind of thing. And her, her picture or vision of it is when you, when people do that, you know, people are going to have less, they're going to, they're going to show up, it's going to show up on people's systems which parts of the lawn are under watered or which parts of the lawn really need more soil treatment, or the proper amount of turf there to hold the water and they'll find out. But with a lot of the current practices people don't know how much they're, they're over-watering. The idea with the hand hose, is you solve the spot problems or in the long run you make the change to the turf to do it.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

From a policy standpoint I think it's up to you to decide, you know, do you want to put it out there. Is it important enough for the water conservation eliminated waste to push the system a little bit, make people make the changes they have to make and, yeah, there's going to be some impact on people that they're going to have to learn to make due with a more limited schedule. So that was kind of her strategy. It wasn't really to have everybody, anybody's system dry up or, or go to a xeriscape or a desert thing, I think.

The other thing that she wanted to point out was that it's, there's a, these ET controllers that we heard about today are a good technology for individual, you're looking at individual customer and managing their, their system. And you can get these higher percentages of savings in conjunction with a smart system. You know, if you put a smart controller on a smart system, and you go in and you manage somebody's water system, then you, you can get good savings with it. But the water managers from utilities don't see the ET controllers necessarily as a panacea where you can get at least 20, 30 percent savings across your whole system. If you don't, if you have a dumb system a smart controller isn't necessarily going to fix, you know, all the problems.

So I probably talked for plenty of time. I guess the major thing I would say is if you don't address this now . . . *(change tape, start 3A)*. . . it's going to come up in some other context as trade-offs with other things, you know. That would be the basic message from looking at the source and other alternatives we have in the system for the long-term supplying the water supplies here.

CHAIR ANDERSON: Thank you, Mr. Freedman. You know, --

COUNCILMEMBER PONTANILLA: Chair?

CHAIR ANDERSON: --just a second, Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you.

CHAIR ANDERSON: What really disturbed me and got me thinking that we needed to do something is the minutes of the May 28, 22nd, Board of Water Supply meeting when Ms. Kraftsow, who is head of planning for the Department presented a water availability spreadsheet. And I'm not going to read the minutes, because I don't want to take the time, but basically anybody that wants to see a copy of this I'd be happy to pass it on. And Mr. Freedman can probably verify this. You know, we're not even using the two-thirds of two-thirds. We're way beyond that backup where you only use two-thirds of two-thirds. Forget it. There's no backup left. If we use that method, we'd be seven million gallons short for Central. But even using the historical method, which is not the two-thirds of two-thirds, we're nearly 400,000 gallons short of water right now in Central Maui.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

And everybody knock on wood with me, if Shaft 33 goes down, then there will be no water for golf courses. There will be no water for drinking. That's, that's a huge portion of our water. So, you know, if there is not the political will to do anything now that would help us save some, we're thinking this could save us three million gallons of water, then so be it. I'm just going to go through this really quickly and see if there is any support for any of these measures. Is there any support to restrict the watering hours?

COUNCILMEMBER PONTANILLA: Chairman, I have a question for Carl.

CHAIR ANDERSON: Okay, go ahead.

COUNCILMEMBER PONTANILLA: Yeah. Carl, you, you mentioned about Ms. Vickers being here, and you folks drove around, and on the, the watering from three days to two days would be sufficient to, you know, at least save water, yeah. Turf treatment. I know Mr. Rezens talked about, you know, treating your turf meaning compost, on top of the compost you get grass. The areas that you guys had visited in regards to looking at lawns was it, you know, turf treatment type or strictly sand with grass on the top?

MR. FREEDMAN: I don't actually know what's underneath. You know, and I don't know that she could tell, but I think her response was that there's a lot, lot of over watering going on. I mean she showed you photographs of some of the --

COUNCILMEMBER PONTANILLA: Yeah.

MR. FREEDMAN: --watering things. And, but I think, and I'm not an expert on turf, but it is important to realize that what we're talking about here is basically turf. You know, you can irrigate most things with drip. We're talking about spraying turf is, is the part here. And the, there, I guess, well, I should take that back. We did go to some of the commercial multi-family dwellings and pretty clearly it's just grass growing in sandy stuff and even with the irrigation it's not growing well.

COUNCILMEMBER PONTANILLA: Yeah.

MR. FREEDMAN: Whereas, if you look at some of the private well maintained things, you have a nice rich turf, a green kind of a thing, obviously there's some more soil in there, but --

COUNCILMEMBER PONTANILLA: Okay.

MR. FREEDMAN: --I think you're probably going to have a whole gamut of circumstances.

COUNCILMEMBER PONTANILLA: Yeah. Thank you.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Yeah, and that's the problem is that we have variable soil types, we have variable climate. It's not like one size fits all. So, you know, this was the best that we could come up with that could be applicable across the board with some exemptions in place that, that allow for backup. You know, if, if, if you don't want to go with two days a week, and you want to go with three days a week fine, but I want to know if there's any support for this at all. And I'm going to start with the, the restrictions on watering from 6:00 p.m. until 9:00 a.m. Is there any support for that?

COUNCILMEMBER PONTANILLA: Yeah, I can support for golf courses.

COUNCILMEMBER BAISA: Yeah.

CHAIR ANDERSON: No support?

COUNCILMEMBER MATEO: Madam Chair, I'm sorry, could you repeat that, repeat that statement again?

CHAIR ANDERSON: I want to know, I mean I'm, I'm, I'm looking at this, you know, the broadest to the most narrow restriction. And I mean to me the most common sense thing is don't water in the midday --

COUNCILMEMBER BAISA: Yes.

CHAIR ANDERSON: --because how much of the water is just blowing away. So I want to know if there's any support for that from restricting irrigation to the hours of 6:00 p.m. to 9:00 a.m.

COUNCILMEMBER PONTANILLA: I'll support that.

COUNCILMEMBER MATEO: Support.

COUNCILMEMBER BAISA: I can support that.

CHAIR ANDERSON: All right. Odd irrigation; two days a week. I've already gone through the exemptions. So is there any support for restricting irrigation to two days a week? Any support for three days a week?

COUNCILMEMBER MATEO: I could support three days a week.

CHAIR ANDERSON: No support from the other Members for restricting watering to three days a week?

COUNCILMEMBER PONTANILLA: Three days is good. Three days is good.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Then we could change the, the language. Kim, maybe you might want to come up here and see if you can do this while we talk.

COUNCILMEMBER PONTANILLA: Chairman? Chairman?

CHAIR ANDERSON: Yeah.

COUNCILMEMBER PONTANILLA: You know, Mr. Freedman brought up a very good point in regards to ET, evaporation transpiration [*sic*] and some of this equipment tells, whoever has this particular equipment on their property when to water, because I think it does tell you how wet...

CHAIR ANDERSON: Yeah, but you know...

COUNCILMEMBER PONTANILLA: You know what I'm saying; right?

CHAIR ANDERSON: Yeah, but I mean we can't expect everybody in the County to, to put in evapotranspiration sensors. And I've also been told that, you know, they aren't always that reliable. You know, if you have a, a professional maintenance manager, then maybe it would work for you, but it may not work for just everybody.

COUNCILMEMBER PONTANILLA: Yeah, most people don't have it.

CHAIR ANDERSON: No.

COUNCILMEMBER PONTANILLA: But all I'm saying is that those that have it, you know, it's something that they can rely on in, in regards to their three days of watering.

CHAIR ANDERSON: Right. But we would, we would do, we would change the language. Addresses ending in even numbers shall irrigate only on Tuesday, Thursday, Saturdays. Addresses ending in odd numbers shall irrigate only on Sunday, Wednesdays, and Fridays. Something to that effect. And then common areas with no addresses shall be irrigated on Wednesdays and Saturdays. That was the two day a week schedule, so we could do I guess Mondays, Wednesdays, and Saturdays. Thank you, Director Eng.

MS. WILLENBRINK: Did you say Sundays, Wednesdays, and Fridays?

CHAIR ANDERSON: Mondays, Weds..., for what? Sundays, Wednesdays, and Fridays for odd; Tuesdays, Thursdays, and Saturdays for even.

MS. WILLENBRINK: Okay.

CHAIR ANDERSON: Common areas Monday, Wednesdays, and Saturdays. Okay. Large landscaped areas that must be irrigated in rotated zones shall landscape some, some zones on, well, then we just change that to three days a week, Kim, the same as we did before.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MS. WILLENBRINK: Okay.

CHAIR ANDERSON: Okay. Members, any problems with any of the exemptions allowing for irrigation using handheld hoses equipped with automatic shut-off valves, exempting drip irrigation systems? And we will use the definition, Members, if you would allow us the flexibility. Since Ms. Baisa brought up the question on drip irrigation, you know, I thought it was a pretty simple term, but apparently it isn't. There is a definition already in the, what is it the conservation bill, Kim?

MS. WILLENBRINK: Yes, ma'am.

CHAIR ANDERSON: That defines irrigation, drip irrigation. Any problem with that, Members? Irrigation by commercial, or private nurseries, or commercial farms.

Now, I put in gentleman estates are not exempt because there was a lot of question as to whether or not we would be exempting these large estates unfairly. So that's what I put, why I put gentleman's estates are not exempt, but I guess it's a little too vague. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. I did a little bit of looking into this idea about gentleman estates which we all know are often considered on ag property. And I was interested to find out that only 768 people or meters are allocated for ag rates. Even though we have 34,682 meters on ag property, only 768 meters are set aside or qualified for ag rates and 700 of those are Upcountry. So those are the people that I want to protect. I want to make sure that they are exempted if they have applied for and have justified being deserving of ag rates, which I know the Department follows-up to make sure they inspect and, you know, they have to justify that they can qualify.

CHAIR ANDERSON: Well, then would you want to say something to the effect that commercial farms or ag water rate users?

COUNCILMEMBER BAISA: I think that, that narrows it down.

CHAIR ANDERSON: Well, commercial farms is going to be an ag water rate user; right?

COUNCILMEMBER BAISA: Well, should be.

CHAIR ANDERSON: Yeah. So irrigation by commercial, or private nurseries, or farms qualifying for --

COUNCILMEMBER BAISA: Ag rates.

CHAIR ANDERSON: --ag water rates.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

COUNCILMEMBER BAISA: Right, and that takes care of the gentleman farm thing.

CHAIR ANDERSON: Thank you, Ms. Baisa. Okay, exempting irrigation of personal food gardens. Any problems there, Members?

COUNCILMEMBER BAISA: No.

CHAIR ANDERSON: I think that's a fair exemption. Recently installed, let's see, I think, Mr. Freedman, was that one that you had some better...

MR. FREEDMAN: I had two suggestions.

CHAIR ANDERSON: Okay.

MR. FREEDMAN: One was in number seven there you have, I don't know if it was your intent, but you've exempted irrigation also from the timing. Like in golf courses you've specified that it should be at night or before 9:00 a.m., but for irrigation you don't have that provision in there. I would think that for enforcement, and fairness, and public perception if the nighttime hours are okay you might want to put that in there for irrigation too.

CHAIR ANDERSON: I think that's fair; don't you, Members? I mean after all waste is waste no matter what the source of water is. So...

MR. FREEDMAN: One of the slides that Amy Vickers showed you when she was here was going up to the Maui Tech Park during the day, and they have, it's reclaimed water, but they're spraying it all over the sidewalk and the median strip and everything. If you're somebody doing enforcement, and you're going to have complaints coming in, if you do have a nighttime restriction that's clean all the way across the board, it makes everything a lot simpler. Otherwise, you're going to get a lot of complaints about, you know, people don't know what --

CHAIR ANDERSON: Right.

MR. FREEDMAN: --sources are and everything like that. And I think public perception is really important about, you know, we're all in it together. So...

CHAIR ANDERSON: Right. So, Kim, put after 100 percent reclaimed water, just cut and paste which shall be watered at night and before 9:00 a.m.

MR. KUSHI: Madam Chair, I would suggest you define what is at night and instead of using at night just say between the hours of 6:00 p.m. and 9:00 a.m.

CHAIR ANDERSON: All right. Thank you, Mr. Kushi. So we'll go back and, and when I say at night, there we will change all of those between the hours of 6:00 p.m. and 9:00 a.m.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

Thank you, Mr. Kushi. Okay. Recently landscaped, recently installed landscapes which may be watered between the hours of 6:00 p.m. and 9:00 a.m.

COUNCILMEMBER PONTANILLA: Chairman, one of the testifiers indicated for new plantings, you know, sometimes it take 90 days to catch on.

CHAIR ANDERSON: Well, then I guess they're just going to have to use the last 30 days watering by hand or putting in drip irrigation. I mean I walked a lot of grounds looking at new landscaping and, you know, using, 60 days is, is enough. I know DOT in their letter to us said they wanted 90 because that's the contract that they have with the contractors and that's because they want to make sure the plants are established. But, you know, you can, you don't have to overwater for 90 days to, to keep them alive, to prove that it's a good plant.

COUNCILMEMBER PONTANILLA: So the County's going to be liable if the plant dies off?

CHAIR ANDERSON: No. You know, we're just saying, you know, you get 60 days of unlimited watering and after that you've got to water on a schedule, at night, like everybody else. And if 60 days of unlimited watering isn't enough to establish your plantings, then I guess you'll have to water by hand the last 30 days. If, you know, we're giving them three days a week, and if, if those four days they need to continue to water for the last, you know, 70, let's see, from, from the 70th to 90th day, and they need those four extra days during that period, you can establish a lawn in 60 days and that's pretty, you know, we can't please everybody, people. We're trying to make this as, you know, fairly applicable across the board as possible.

And you know, I'm sorry that they put their contracts for a guaranteed 90 days for the life of the plant. And then what? They stop watering after 90 days, and then they let it die like they do along Mokulele. But the contractor got their money, and they're happy.

COUNCILMEMBER PONTANILLA: All, all I'm saying is that somebody testified 90 days and that's all I brought up.

CHAIR ANDERSON: Yeah, that was...

COUNCILMEMBER PONTANILLA: And if you feel differently, fine.

CHAIR ANDERSON: Well, I do but, you know, you don't have to support it if you don't. Does anybody want to change that from 60 days to 90 days?

COUNCILMEMBER PONTANILLA: I will 60 to 90.

CHAIR ANDERSON: You want it to go 90?

COUNCILMEMBER PONTANILLA: Yeah.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Okay. That's something that we'll look at.

MR. KUSHI: Madam Chair, just to clarify.

CHAIR ANDERSON: Mr. Kushi.

MR. KUSHI: Your, your exemptions in B, B-1 through 8, my understanding is that the three day watering period does not apply. It doesn't apply to these exemptions. So they can go full blast every day of the week, okay, as, as it's worded right now.

CHAIR ANDERSON: Yeah, so that, recently installed landscapes I guess should not be listed as an exemption. It should be down underneath all that, Kim. Is that what you're saying, Mr. Kushi?

MR. KUSHI: Yeah, you know, under your, your exemptions, B, the above restrictions which is A, the three days per week, based on house numbers, shall not apply to the following. And then, you know, you go, you have one through eight.

CHAIR ANDERSON: Right.

MR. KUSHI: So they could...one through eight can go every day.

CHAIR ANDERSON: Right. So I think...

COUNCILMEMBER PONTANILLA: So I can be J?

CHAIR ANDERSON: Pardon me?

COUNCILMEMBER PONTANILLA: Can be J or something like that?

CHAIR ANDERSON: Yeah, so I think we need to take five and make that J. Actually, I think we need to make that like C and move everything else down. You follow me, Kim?

MS. WILLENBRINK: Yes.

MR. ANDERSON: Madam Chair?

CHAIR ANDERSON: Mr., Mr. Anderson.

MR. ANDERSON: One more thing about the recently installed landscapes. Say, for instance, if you're installing turf, if you're installing say something like, if you're using like a stones method or even with, I mean like any kind of a seed or even, you know, even if you're putting in sod that the grass will need some watering during the day. It will die if it doesn't get watered during the day.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: During the day.

MR. ANDERSON: Yeah. Yeah, I mean it, it really does need water in the day because they will not survive.

CHAIR ANDERSON: Thank you for that. So let's change that to recently installed landscapes may be watered, and we're taking this out of the exemption list, may be watered on a daily basis for up to 90 days to establish plantings. Is everybody okay with that?

COUNCILMEMBER PONTANILLA: Yeah.

CHAIR ANDERSON: Okay. Thank you, Mr. Anderson.

MS. WILLENBRINK: Okay. So we get all of this other stuff in.

CHAIR ANDERSON: We had, did we, did we already, we discussed athletic fields and hotels.

MR. FREEDMAN: I had a suggestion on the hotels if it's all right.

CHAIR ANDERSON: Mr. Freedman.

MR. FREEDMAN: I think the point here is to allow the large turf areas to be irrigated not everything at the hotels. So I would replace with, yeah, you want to --

CHAIR ANDERSON: Right.

MR. FREEDMAN: --perhaps move the shall be allowed to irrigate and stick that up there instead of with. So it would be hotels shall be allowed to irrigate large turf areas utilized for events.

CHAIR ANDERSON: Thank you for that, Mr. Freedman. Do you follow him, Kim?

MS. WILLENBRINK: Yeah.

CHAIR ANDERSON: Can we go on now? Any questions so far, Members, on anything?

MR. ANDERSON: Madam Chair, I have one more recommendation.

CHAIR ANDERSON: Thank you, Mr. Anderson.

MR. ANDERSON: On exemption number eight where you're exempting golf courses, I would recommend that you put the golf courses in the same category as the athletic playing fields rather than giving them every day, all night long.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Every day, all night long.

MR. ANDERSON: Yeah, because as it's worded the golf courses can water golf courses any, every day of the week, but only between 6:00 p.m. and 9:00 a.m.

CHAIR ANDERSON: Right.

MR. ANDERSON: I would recommend, I mean, I mean I don't see how the golf courses would need any more watering than the athletic playing fields. I think, you know, kind of put those together. They kind, because a golf course is kind of an athletic playing field I think.

CHAIR ANDERSON: Well...

MR. ANDERSON: Well, maybe not athletic but --

COUNCILMEMBER PONTANILLA: Well, I have a problem with that.

MR. ANDERSON: --a playing field. How about that?

CHAIR ANDERSON: Mr. Anderson, you know, we had them included last time as four days because, and we did that based on Waiehu Golf Course. The Members who were here remember that the Parks Department came, and they, they asked us to give them four days for the athletic playing fields and for Waiehu, but it was pointed out to me that Waiehu Golf Course does not charge \$300, or \$200, or even \$150 a round for golf. And I don't want this to be a punitive ordinance. I want this to be something that is just, you know, addressed as water waste.

Now, if there's a time where we are in an emergency shortage, then we would take the next, next drastic step and limit golf courses. But our own Parks Department has their, their conservation plan in place already that limits Waiehu to four days a week and that has to do with saving energy costs not just saving water. So I think I'd rather, I appreciate your suggestion, Mr. Tui, and, you know, I'd love to do it, but I don't think we can get support for that. And, at this point in time, I'd rather get this in place and see if we can't get it changing people's perception on how they water. And, you know, they, I hope, do not waste water, they, they don't want to overwater because it, it's not good for the course, it's not good for play the next day. So we're going to take them on their word that they are using water wisely, but I appreciate the suggestion. Members, anybody support the notion, restricting golf courses to four days a week?

COUNCILMEMBER PONTANILLA: No.

CHAIR ANDERSON: Not today. Our golfer says no.

COUNCILMEMBER PONTANILLA: Corporation Counsel plays.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: Corporation Counsel's frowning. I mean we've got to protect people's investments; right?

COUNCILMEMBER PONTANILLA: True.

COUNCILMEMBER BAISA: I'm not a golfer, but I'm concerned.

CHAIR ANDERSON: You can't really go out and hand water a golf course. You may have to some day if these measures that we're taking don't stop the downward trend that we see. Where are we, Kim? Oh, we're down at manual car washing and boat washing. Nobody has a problem with that, I hope. The wording on that is pretty clear.

COUNCILMEMBER PONTANILLA: No.

COUNCILMEMBER BAISA: No.

CHAIR ANDERSON: Okay. Water runoff onto streets, sidewalks, and gutters shall be prohibited.

COUNCILMEMBER BAISA: No problem.

CHAIR ANDERSON: Any problem with that, Members?

COUNCILMEMBER PONTANILLA: No, no problem.

CHAIR ANDERSON: You know, I didn't know how to frame this. I don't, maybe excessive water runoff might be a good term. But runoff, I think, is a descriptive term in itself. That means it's running somewhere.

COUNCILMEMBER BAISA: Running down the road.

CHAIR ANDERSON: It's not just, you know, sprinkling and being absorbed by the concrete which means it's excessive in its nature. So I think we're safe to leave it that way. Number G, or rather, what are we now? G, H...cases of extraordinary circumstances may request, and instead of using a variance, Members, because that's a term that is defined in the County Code as a formal type of request, I was advised that we change that, because I want this to be an informal thing. And cases of extraordinary circumstances, because I would think that an extraordinary circumstance is very rare, may request an exception to the water schedule from the Director of Water Supply.

MR. ANDERSON: Madam Chair, I have one more thing.

CHAIR ANDERSON: Mr. Anderson.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. ANDERSON: On, what is it? Now it's, now it's G, up there. I would recommend that water runoff onto streets, sidewalks, and gutters shall be prohibited, that, that right there seems like the most critical and the most important thing if we can get, if we can get this through. That I think should be number one. I think that should be A because that really seems to me, and I think everybody would agree, that would be the most important thing.

CHAIR ANDERSON: Such an obvious waste, yeah?

MR. ANDERSON: Yeah, the obvious waste put that right up on top, and then all the other stuff is, I think, I mean that's going to be the biggest one right there and the most obvious. I mean we just can't do that.

CHAIR ANDERSON: Okay. We can do that. Thank you, Mr. Anderson. Let's get back to the cases of extraordinary circumstances. I just want to get through the, the body of the bill, and then we can, you know, make changes as far as where we line things up, because I agree with you, Mr. Anderson, it probably should be on top.

MS. WILLENBRINK: Can you guide me? A is way up here.

CHAIR ANDERSON: Oh, number A right under outdoor irrigation and water use. Is that what you mean?

MR. ANDERSON: Either there or just B . . . *(change tape, start 3B)*. . . wherever. I think somewhere, and you don't have, we don't have to change that right now, but somewhere up there on the top I would think.

CHAIR ANDERSON: Okay, Members, any, any objections to that?

COUNCILMEMBER BAISA: No.

COUNCILMEMBER PONTANILLA: No.

CHAIR ANDERSON: Okay. We'll take care of that later, Kim. Cases of extraordinary circumstances may request an exception to the water schedule from the Director of Water Supply. Any problems with that, Members?

COUNCILMEMBER BAISA: No.

CHAIR ANDERSON: Mr. Kushi.

MR. KUSHI: No problems, Madam Chair.

CHAIR ANDERSON: Thank you.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. KUSHI: If they get denied, they just appeal the Director's decision to the Board of Water Supply.

CHAIR ANDERSON: Thank you. So did you hear that, folks?

COUNCILMEMBER BAISA: Yes.

CHAIR ANDERSON: If you have an extraordinary circumstance like the Maui County Fair and the Director has a bad day and says, no, you can't alter your watering schedule, you can always go to the Board of Water Supply and appeal his decision, but I don't anticipate that happening. The Department of Water Supply shall develop, and implement, and--can take care of that "d"--yeah, an education program to implement this section. The idea, idea in this, Members, is to make, make it obvious that the Council expects the Department to implement this program and to make some effort in educating the public about it. Mr. Director, any problem with that?

MR. ENG: No, that's the obvious thing for us to do. Thank you.

CHAIR ANDERSON: Okay. We're hoping that we can get some ads in the paper, and we'll do press releases too. The provisions of this section shall be reviewed for effectiveness by the Department of Water Supply and the County Council within one year of inception. Any problems with that, Members?

COUNCILMEMBER PONTANILLA: No.

CHAIR ANDERSON: Any suggestions for changes?

COUNCILMEMBER PONTANILLA: Chairman, I got a question.

CHAIR ANDERSON: Yes.

COUNCILMEMBER PONTANILLA: On, on H, I know we talked about the Maui County Fair, but, you know, we do have some high schools and some non-profit that do car washes for fundraising. So those are prohibited?

CHAIR ANDERSON: No.

COUNCILMEMBER PONTANILLA: So, they can get a permit for...

CHAIR ANDERSON: Well, if you use a handheld hose you can wash your car until the cows come home.

COUNCILMEMBER PONTANILLA: Okay. Just as long as they get someplace to go to, to get that approval.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CHAIR ANDERSON: No, they don't need approval, Mr. Pontanilla. Car washing, all manual car washing and boat washing shall use handheld hoses equipped with automatic shutoff nozzles.

COUNCILMEMBER PONTANILLA: Okay. Good.

CHAIR ANDERSON: So they're not out there, you know, spending the whole day squirting each other down, they're, well, I guess they could with a handheld nozzle. So that takes us, Members, to the enforcement provision. This is a standard provision already in the County Code. There is a provision for appeal. It also allows, I'm just going to read it, any person violating any of the provisions of this section shall be served with an order of violation, shall be subject to a fine not more than \$500 for each violation. In addition, if such person is a consumer of the County water system, water service to such consumer's premises may be subject to suspension or termination that may include the removal of water meters and such service shall not be resumed or reinstalled until all associated water charges due and owing, together with any and all costs and expenses incurred by the Department due to such violations, have been paid in full.

MR. FREEDMAN: Can I just note that there are two County water systems; one, is the Department of Environmental Management's non-potable system. You might want to clarify whether you mean both water systems or one or the other.

CHAIR ANDERSON: Well, I think, we don't call it a water system, we call it wastewater system.

MR. FREEDMAN: Okay.

CHAIR ANDERSON: Okay.

MR. FREEDMAN: I'm talking about the R-1 water, the reclaimed water.

CHAIR ANDERSON: Right.

MR. FREEDMAN: Yeah.

CHAIR ANDERSON: Right. What do you think we should include that?

MR. FREEDMAN: Well, if you have a provision that prevents people from using reclaimed water during certain hours this, if you made it both systems, then the Director could cut off, ultimately cut off the service for the reclaimed water. That would be the only...

CHAIR ANDERSON: Mr. Kushi, do we want...

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

MR. KUSHI: Yes, Madam Chair, Carl brings up a good point, but I think reclaimed water use, and cutting off, and regulation thereof should be addressed in a different section, a different time.

CHAIR ANDERSON: And within the wastewater systems.

MR. KUSHI: Yeah, and, and, and we haven't really gotten into that. I say leave well enough alone and work on this one now.

CHAIR ANDERSON: Okay. Thank you, Mr. Kushi. Thank you, Mr. Freedman. If the Director determines that a violation of any of the provisions of this section has occurred, the Director may have the person served by mail or personally, personal delivery with a notice of violation and order pursuant to this section and such administrative rules as the Director may adopt. You know, I, I guess it's in the administrative rules in the Department of Planning that, that requires the two notices of, two warnings. Do we want to put something in here about a warning, Members? Or do we just want to go ahead, I mean I think we should give people a warning. First violation should be a warning notice.

COUNCILMEMBER BAISA: Chair, this is where it gets hairy.

CHAIR ANDERSON: Yeah.

COUNCILMEMBER BAISA: Because you're asking for, or, or the notice is going to say the nature of the violation, the location, the time. And how are you going to get that unless somebody reported? Are people going to be protected by anonymity?

MR. ENG: Madam Chair, maybe I can address that for Member Baisa?

CHAIR ANDERSON: Please jump in.

MR. ENG: In the event that we do get a complaint from the public, you know, then whoever is assigned that task from the Department will go out and, and observe, and document the violation. So, you know, it won't be just based on hearsay or the call itself. We will go out and verify it.

COUNCILMEMBER BAISA: But by then I turned off my hose or my whatever.

MR. ENG: Well, then, you know, that's what we wanted you to do in the first place. So, again..., so that's what we'll do. You know, we got to, we got to verify it, and we may even have to videotape it, but I think that's the proper thing to do. Now, whether or not we want to give it a warning first, we can go either way. Maybe initially we can begin with just warnings, and then before we issue a, a notice of violation.

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

COUNCILMEMBER BAISA: I think the warning is a good idea because, you know, they'll always be the defense of I didn't know --

MR. ENG: That's right.

COUNCILMEMBER BAISA: --or I forgot, forgot what that paper said. It said this day and this day, and I forgot.

CHAIR ANDERSON: Yeah, and I think that's part of the education too is giving them a warning. Not everybody reads the paper. So, Members, I think we have gotten as far as we can go on this. I'd like to see if we can get a vote to maybe, it's probably not good to pass this out without the enforcement section. So unless I have any suggestions from Staff on how to deal with this, I don't think we can deal with this enforcement section in the time we have left. I know this was written up by, Kim?

MS. WILLENBRINK: This is found in Chapter 19, and tweaked somewhat to fit the, this chapter.

CHAIR ANDERSON: Right. So, Members, I appreciate the effort in this last half hour to get through something that we can all live with, but I think we need a little bit more time on this enforcement, because as Ms. Baisa said, this is kind of a critical section, and we haven't really had a chance to go over it. And I, for one, having seen too many violators of Title 19, get warning and warning, and still go ahead and build without a permit, and then pay no fine at all. I don't want tutu to get a \$500 fine because she didn't know she wasn't supposed to water on Tuesdays. So I think we need to tighten that up. Members, do we have a consensus on everything so far in the bill? I will ask for a vote at the next meeting, but so far as far as we've gone.

COUNCILMEMBER PONTANILLA: Up to enforcement. Up to enforcement; right?

CHAIR ANDERSON: Up to enforcement.

COUNCILMEMBER PONTANILLA: Yeah.

CHAIR ANDERSON: Okay. Ms. Baisa.

COUNCILMEMBER BAISA: No, I'm okay, except that, you know, I still have this niggling concern about limits. There's just got to be some limits, you know.

CHAIR ANDERSON: What kind of concern was that?

COUNCILMEMBER BAISA: It, it's, it's the concern about limits on all of this, there is really no penalty for continuing to use a lot of water.

CHAIR ANDERSON: That's true.

WATER RESOURCES COMMITTEE MINUTES

Council of the County of Maui

August 18, 2008

COUNCILMEMBER BAISA: It's going to tell you what days you can do it, but it doesn't tell you how much and that's my concern.

CHAIR ANDERSON: Right. And, you know, that is a concern, but I don't know how we can fairly deal with that. I mean a percent reduction would be one way to do it, but then, you know, just as with the drought situation when somebody knows that they're going to be asked to do a reduction, they increase our water use so that when they reduce it's not really going to hurt them. And the other thing that we're trying to do with this is to spread out the water use so that not everybody is using water for outdoor irrigation all together at the, on the same days. So requiring three days a week helps spread out the use, and I, I really don't think if Mr., Director Eng would like to speak to this, I really don't, regarding percent reduction, it's an awful lot of internal monitoring.

MR. ENG: Yes, thank you, Madam Chair, you're absolutely right. I don't know currently if we're equipped to monitor each of our customers to that extent. I think the appropriate way to address this, Member Baisa, is as we look at our next rate design. And, again, because you're trying to really control those who are using excessive amounts of water, and I think really rate design is the way to do it.

COUNCILMEMBER BAISA: I totally agree with you, and I think that we have to do that the next round, because we need to be compensated by those who are using excessive amounts of water, and it will help with all of the financial considerations that you are trying to deal with in trying to take care of our water problems once and for all. Thank you.

MR. ENG: Yes, thank you.

CHAIR ANDERSON: Okay. Mr. Kushi, you wanted to say something?

MR. KUSHI: Yes, last comment, Madam Chair. As you said this bill is not intended to be a drought ordinance of any sort. However, I would work with your Staff and, and, and come up with a section to address that to say basically, you know, whatever is permitted, or restricted, or, or scheduled in this bill would be suspended and subject to, subject to any terms of a general drought declaration because a, whenever you get to that, that drought ordinance, but...

CHAIR ANDERSON: Subject, subject to a general drought.

MR. KUSHI: Right, because the drought declarations and conditions may be more strict or stringent than this.

CHAIR ANDERSON: Thank you for that, Mr. Kushi, that's a good thought now that I've buried my bill. Someone will remind me of that. Members, I'm sorry we couldn't pass this out, but I think we've gone a long ways and at least we got a consensus on some

WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

measures that we can take to curb wasteful use of our water and that's what this is all about. And I think we're sharing...we're sharing the problem. We're sharing the sacrifice in an equal way, as equal as possible. People in their homes don't depend, well, I guess unless they have their house for sale, they don't necessarily depend on their livelihood by how green their lawn is, but the hotels and the golf courses do so we're going to give them a break

But as a child of the 60's, I live by the motto, "if you're not part of the solution, you're part of the problem", and we have a problem. So we're asking everyone to be a part of the solution.

Okay, Members, I know it's late. I'm going to thank all of you in general for your help. Oh, you like that motto, huh? ...*(chuckles)*... The Water Resources Committee meeting of August 18th is now adjourned. ...*(gavel)*...

ACTION: DEFER PENDING FURTHER DISCUSSION.

ITEM NO. 1 WATER SUPPLY RULES (C.C. No. 05-46)

ACTION: DEFER – NO DISCUSSION.

ADJOURN: 12:28 p.m.

APPROVED:



MICHELLE ANDERSON, Chair
Water Resources Committee

wr:min:080818

Transcribed by: Jessica Cahill

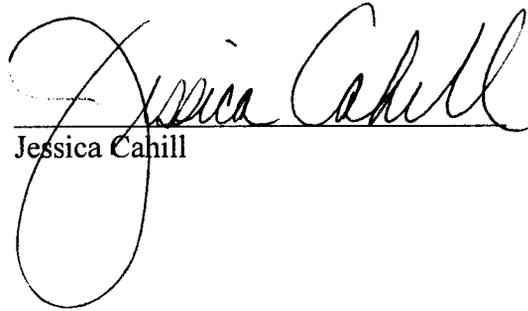
WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 18, 2008

CERTIFICATE

I, Jessica Cahill, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 5th day of September, 2008, in Wailuku, Hawaii



Jessica Cahill