

MINUTES

WATER RESOURCES COMMITTEE

Council of the County of Maui

Council Chamber

November 29, 2006

CONVENE: 9:06 a.m.

PRESENT: Councilmember Michelle Anderson, Chair
Councilmember Robert Carroll, Member
Councilmember Jo Anne Johnson, Member
Councilmember Michael J. Molina, Member
Councilmember Joseph Pontanilla, Member

EXCUSED: Councilmember Charmaine Tavares, Vice-Chair
Councilmember Dain P. Kane, Member

STAFF: David Raatz, Legislative Attorney
Pauline Martins, Committee Secretary

ADMIN.: Edward Kushi, Jr., Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS: John Duey
Plus (3) other people

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

CHAIR ANDERSON: . . . (*gavel*) . . . Good morning, everybody.

COUNCILMEMBER PONTANILLA: Morning.

CHAIR ANDERSON: Welcome to the Water Resources Committee of November 29th. This meeting is gonna be short and sweet. What we're gonna be doing today is forwarding items currently in Committee to the next term. Before we do that, Members, and I would like to entertain a motion from anyone to forward those items that are on your agenda this morning. Basically, they're most everything that we still have within the Committee. A few items that just collect water reports have been filed, and we'll probably create new items for those reports that will be coming in at the next term. But I just wanted to thank all of you for all your hard work this term.

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I think the Water Resources Committee has focused its attention on things that are of concern in the community. We passed a resolution prohibiting the use of Hamakuapoko wells; and we passed an ordinance prohibiting the use of Hamakuapoko wells for human consumption. When the resolution didn't quite work, we also adopted . . . um . . . a bill that requires private companies to report their water use, which is a big step in the right direction, keeping track of our water resources. We also adopted a policy on water conservation this term. It's being worked on by the Board of Water Supply and will be coming back to us, hopefully, at the beginning of next term for the Council to work on. We also adopted a resolution to appropriate funds for a review workshop on the Boyle Report as well as appropriating funds for a peer review on the--didn't I just say that?

COUNCILMEMBER JOHNSON: Yeah.

CHAIR ANDERSON: Yeah. The peer review is the review workshop. I'm sorry.

And then, we also adopted a resolution and appropriated Council money for the EPA to come and do a comprehensive performance evaluation for the Upcountry system, which I think will be real helpful for us next term as we dive deeper into the Department of Water Supply. Also, we did . . . um . . . I think that's what we did. We also did get a codification of the Water Rules from the Corporation Counsel. Thank you for that, Mr. Kushi. We appreciate it. It was a long time coming but we now have it and we're moving forward. Those rules have been sent to the Board of Water Supply and the various departments for their review.

So I want to thank all of you for contributing your time and effort this term in moving forward on this big subject matter. And hopefully, we did just begin review of the Upcountry water issuance list (a water meter issuance list) and we'll be . . . um . . . working on that at the beginning of next term.

So Members, anybody have any comments they want to make based on what I just said? Or in regards to those items that we're moving forward for the next term? Mr. Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. First of all, thank you very much for your leadership with the Committee. I know it was . . . you had a very busy and heavy agenda and I think we got a lot done, so thank you. And . . . um . . . just for a matter of public record, when it is appropriate, when the motion is made, if you'd like to just mention the items that will be referred over to the . . . uh . . . to the Council Chair for the next term, for a matter of public record for those who may be watching. Okay.

CHAIR ANDERSON: That's a good idea.

COUNCILMEMBER MOLINA: Thank you.

CHAIR ANDERSON: Thank you, Mr. Molina. Member Johnson?

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COUNCILMEMBER JOHNSON: I just wanted to find out. Are there any members of the public who wanted to testify on anything this morning?

CHAIR ANDERSON: Well that's a good . . . (*chuckled*) . . . a good question. No, we don't have anybody signed up.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR ANDERSON: But we have a couple of diehards in the audience. . . . (*chuckled*) . . . Thank you for being here. Any other comments, Members? So for the public record, I will just read into the agenda--I mean read into the record, what's on the agenda for referral to the next Council term.

WR-1 WATER SUPPLY RULES (C.C. No. 05-46/C.C. No. 06-228)

CHAIR ANDERSON: Water supply rules, which I just mentioned. Again, they've been sent out to various departments and to the Board of Water Supply for their review, and hopefully comments and suggestions for improvement; and it will be coming back to the Council the beginning of next term.

WR-2 PROCEDURE FOR WATER ALLOCATION (C.C. No. 05-41)

CHAIR ANDERSON: Procedure for water allocation, that's something that we're working on and hopefully, we'll be bringing that up immediately at the beginning of next term.

WR-3 WATER ADDITIVES (C.C. No. 05-39)

CHAIR ANDERSON: There is still an item called water additives, basically, having to do with fluoride in the water.

WR-4 WATER USE AND DEVELOPMENT PLAN (C.C. No. 05-38)

CHAIR ANDERSON: We also have our water use and development plan item that we've been working on this year. Hopefully, in the next term, the Administration will use the money that we appropriated to facilitate getting this water use and development plan done in a more expeditious matter.

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WR-8 IAO AND WAIHEE AQUIFER SYSTEMS (C.C. No. 05-47)

CHAIR ANDERSON: We also have an item called Iao and Waihee aquifer systems. As all of you know, there is a . . . the Council appropriated money to purchase the Wailuku Ag Company, Wailuku Water Company system; and that would be for all the surface water that is fed through the Iao system. Hopefully, the Administration will move forward on that. As yet, it's my understanding that an appraiser has not yet been found for that. So . . . um . . . hopefully, as I said, the new Administration will move forward.

WR-9 UPCOUNTRY LEAD-CONTROL PROGRAM (C.C. No. 05-45)

CHAIR ANDERSON: The Upcountry lead-control program. We're keeping that in because we do have the Boyle report that's still going to be reviewed.

WR-10 SCIENTIFIC STUDIES FOR NA WAI EHA (C.C. No. 05-115)

CHAIR ANDERSON: We also have scientific studies for Na Wai Eha and . . . um . . . that has to do with surface water studies for Waihee, Waichu, Iao, and Waikapu Streams, as well as the tributaries.

WR-12 POOKELA WELL (C.C. No. 05-44)

CHAIR ANDERSON: Item 12 is the Pookela Well. I thought we should keep that on until the well gets opened, as we've waited several years for that to happen.

WR-13 PROHIBITING DEVELOPMENT PROJECTS WITHOUT A LONG-TERM RELIABLE SOURCE OF WATER (C.C. No. 05-271)

CHAIR ANDERSON: WR-13, prohibiting development projects without a long-term reliable source of water. I think this is a proposed bill that, you know, merits our review. We . . . we are still waiting for some review comments from various agencies, so I will try to send some letters out and remind them that we're waiting for their response.

WR-14 WATER-CONSERVATION PLAN (C.C. No. 05-273/C.C. No. 06-166)

CHAIR ANDERSON: The water-conservation plan again was an ordinance that we adopted. I kept this in because it needs to come back to the Council, so I thought it would just be better to keep this item on our agenda.

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WR-15 CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR PRIVATE WATER SYSTEMS (MISC.)

CHAIR ANDERSON: WR-15, construction and maintenance requirements for private water systems. This is something that we didn't even look at this term, Members. So I thought it was important to keep it in and bring it forward and see . . . um . . . what the concerns were.

WR-16 DEVELOPMENT OF NEW SOURCES OF WATER (C.C. No. 05-319)

CHAIR ANDERSON: WR-16, development of new sources of water. That's an exciting item that we hope will come up at the beginning of this next term. As you all recall, the Committee did have a presentation from Dr. Thomas (I believe his name is) from UH and . . . um . . . who found an artesian source of water on the Big Island that is producing--what was it?--an astronomical amount of water, self-delivered, which is pretty amazing. So he seems to think that the volcanic substrate on our island is fairly similar to the Big Island, so there's a chance that we could have that kind of source off Haleakala; and the Council did appropriate money this last July. So hopefully, the new Administration will move on that and do some exploration to see the possibility. It could solve a lot of problems and probably open up a few more. . . . (*chuckled*) . . . We'll deal with that when it happens.

WR-17 INSTALLATION OF WATERLINE ON UPPER ULUMALU ROAD (HAIKU)
(C.C. No. 05-320)

CHAIR ANDERSON: WR-17 is installation of the waterline on Upper Ulumalu Road. I thank you, Members, for all the time we spent on this this term. It was a lot of time to spend on one item but I think it was an important thing for us to follow through on in regards to the residents that live on Ulumalu Road. And we do have two people here today from Ulumalu Road. Thank you for being here. So we will be following up on that. We're leaving that in our Committee.

WR-18 MAUI TOMORROW V. STATE; NA MOKU AUPUNI O KO'OLAUI HUI V. STATE
(C.C. NO. 05-48)

CHAIR ANDERSON: The item WR-18, Maui Tomorrow versus the State, Na Moku Aupuni O Ko'Olau Hui versus the State. This has to do with East Maui stream flow. I decided to keep this on because we'd like to have some kind of resolution before we close it out.

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WR-19 SPECIAL COUNSEL FOR WATER-RELATED MATTERS (C.C. No. 05-42)

CHAIR ANDERSON: WR-19, special counsel for water-related matters. I thought it was important to keep this in because the advice given from the special counsel had a lot to do with the water rules that we're going to be dealing with next term.

WR-21 RESIDENTIAL FIRE PROTECTION (C.C. No. 05-331)

CHAIR ANDERSON: WR-21, residential fire protection. This is something that came to us from the Board and they would like the Council to look at this issue in regards to adequate . . . or inadequate residential fire protection and how it's dealt with within the department.

WR-22 HAMAKUAPOKO WELLS (C.C. No. 05-356)

CHAIR ANDERSON: Item 22, Hamakuapoko wells. Members, I left this item in simply because we understand that the 36-inch pipeline is still being installed. The 36-inch pipeline, the only authority for that pipeline is to connect the Hamakuapoko wells to the Paia tank; and since we passed an ordinance prohibiting that, I thought it was important to leave this in in case . . . um . . . we need to deal with the 36-inch pipeline.

WR-23 HANA WATERLINE (C.C. No. 06-72)

CHAIR ANDERSON: WR-23 is the Hana waterline. Members, that's an item that I was hoping that we could get to this term; and in fact, get a meeting out in Hana on it. So I just left that in to see how we can resolve that.

WR-24 WATER RATE STUDY (C.C. No. 05-43)

CHAIR ANDERSON: The water rate study. I left that in, Members, because we know that the Board is looking at increasing Ag rates and possibly other water rates; and so just for background information, I thought it was important to keep that in our binders with the Beck study.

WR-27 ACCESS THROUGH THE HANS MICHEL PROPERTY FOR MAINTENANCE AND OPERATION OF KANAHA VALLEY STREAM (C.C. No. 06-160)

CHAIR ANDERSON: WR-27 is the issue regarding the Hans Michel property regarding the maintenance and operation of the Kanaha Valley Stream, intake, and the wells and tank. I understand that that still has not be resolved and so we're keeping that item open also.

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WR-28 WATER QUALITY (C.C. No. 06-182)

CHAIR ANDERSON: WR-28 is an item, a water kind of a general item of water quality. I thought it was important for us to have an item just on that topic so that we could look at various water quality issues as they come up.

WR-29 UPCOUNTRY WATER METER LIST (C.C. No. 06-279)

CHAIR ANDERSON: And then of course, we have the Upcountry water meter list.

So those are the items that are staying onboard if all of you agree to that. I would like to mention, since . . . even though Mr. Kane is not here, and I'm sorry for that. This is our last meeting of the term and I wanted to thank him for his efforts in bringing forward various bills for us to look at. Two of them are still here in Committee that we will be addressing next term. I believe his bill on water conservation policies and also the bill on reporting . . . uh . . . private water sources reporting their use--both of those were Member Kane's bills--so on behalf of the Committee, I'd like to thank him for his efforts in the term this year.

So Members, any questions on any of these items? No questions? Since I didn't . . . um . . . call for public testimony, I'm gonna do that right now. Is there anybody here who'd like to testify? And I see Mr. John Duey is coming forward.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. DUEY: Good morning, Council members. I'm sorry I'm a little late. I want to . . . uh . . . thank you for letting me address something. I just came to the meeting this morning to see what procedural matters was gonna take place. I'm a little bit disappointed that some of these things haven't moved forward. I'm not blaming anybody in particular, but it seems that these . . . some nineteen. In '05 and early '06, I was hoping that some of these things could move out.

I want to address some information about WR-4 . . . uh . . . no, WR-8 and WR-10. My name is John Duey. I'm sorry. I live in Iao Valley. I'll bring you an update on what's happening with Na Wai Eha, the water. As you know, we filed a waste complaint with the Water Commission in October of 2004. That is finally coming onboard. The Commission, this year, decided that we should mediate with the companies about the waste complaint. It went to mediation. It went no place. That gave the company six more months to do something with the water. There was a mediator hired. We had meetings and they met with everybody, but nothing came out of it. We were hoping that the companies would release some water so that the USGS could do some stream flow studies, and they decided they couldn't do that. So that is going to contested case hearings. We had a meeting here about two weeks ago and then a site

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visit, which I won't go into any details; but it was sort of ridiculous to say the least. The other thing is that they are . . . IIFS (the interim instream flow standards) which we filed in June of '04 is still pending of course and that is being pushed back until the waste complaint is dealt with and settled. So the contested case hearing on the waste complaint is gonna go on for at least another six months. In other words, the County Council's slow and the CWRM is very slow also. It's depressing, when you're on the other side, to try to see something happen. The most depressing thing is that the law as far as the CWRM and the State laws (the Code), it says these things should be in place; and it just takes so long for `em to be . . . for something to happen to put `em in place.

The WR-10, I think, was the other item about the scientific studies. The USGS is working on studies in Na Wai Eha. They contact me on occasion because I have access to certain places in Iao, on Iao Stream. They contact me. There've been . . . they've had cameras in and they're doing some stream studies as far as . . . um . . . _____. They've done some temperature testing and all this. So again, if they don't have stream flow to the ocean, why it's very hard for them to do anything; and the companies have so far . . . uh . . . neglected to release any water for that purpose. So I just wanted to bring you up to date a little bit on that. I will . . . I appreciate you folks help in listening to all of us these past couple years, and we'll be here some more. You haven't seen the last of us. Merry Christmas and Happy New Year.

... END OF PUBLIC TESTIMONY ...

CHAIR ANDERSON: Thank you, Mr. Duey. Members, any questions? Happy New Year to you too, Mr. Duey. Okay. Members, with that, I'd entertain a motion.

COUNCILMEMBER MOLINA: . . . *(inaudible)* . . .

CHAIR ANDERSON: Pardon me?

COUNCILMEMBER MOLINA: . . . *(inaudible)* . . . public testimony?

CHAIR ANDERSON: Oh, okay. Public testimony is now closed.

COUNCILMEMBER MOLINA: No objections.

CHAIR ANDERSON: Thank you. So I would entertain a motion, Members, to refer these items to the Council Chair for the term beginning January 2, 2007.

COUNCILMEMBER PONTANILLA: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR ANDERSON: Thank you. Moved and seconded by Mr. Pontanilla and Mr. Molina. Any comments or discussion? Ms. Johnson.

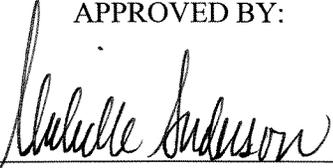
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Supply, who assisted us during this term. And Mr. Ed Kushi from Corporation Counsel, thank you so much for your assistance. And also for the Committee Staff, Pauline Martins, our Secretary, who's kept us on track all term. And for our Analyst, David Raatz, thank you so much for all your assistance this term. Members, any other announcements? Seeing none, the Water Resources Committee meeting of November 29th is now adjourned. . . . (*gavel*) . . .

ADJOURN: 9:26 a.m.

APPROVED BY:



MICHELLE ANDERSON, Chair
Water Resources Committee

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Transcribed by: Pauline Martins