

## WR Committee

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**From:** Chris Salem <chrissalem8@yahoo.com>  
**Sent:** Saturday, July 30, 2016 7:32 AM  
**To:** WR Committee  
**Subject:** Sunshine Law Violation  
**Attachments:** Baisa Sunshine Law Violation Letter.pdf; Sunshine Law Violation Exhibits.pdf

Please read into the record the attached Notice of Violations of the State of Hawaii Sunshine Law relating to "exemptions to some costly infrastructure requirements" that impact taxpayers island wide without required public notice.

The State of Hawaii Office of Information Practices has been engaged through a request for investigation.

Christopher Salem  
5100 Lower Honoapiilani Road  
Lahaina, HI 96761

...

July 23, 2016

Maui County Council  
Council Member Gladys Baisa  
Chair of the Water Resources Committee  
Kalana O Maui Building, 8<sup>th</sup> Floor  
200 South High Street  
Wailuku, HI 96793

RE: State of Hawaii Sunshine Law Violation

Dear Council Member Baisa;

I am writing this letter to bring to your attention a recent discovery that raises serious concerns regarding clear violations of the State of Hawaii Sunshine Laws under your direction as Chair of the Water Resources Committee of the Maui County Council, along with the assistance and involvement of the Department of Corporation Counsel and David Goode, Director of Public Works.

At issue is an ordinance recently adopted under your purview, without lawful public notice, that deceptively shifts private developer's financial obligations to the citizens and taxpayers of Maui County. The adoption of an amendment to the Title 18 Subdivision Ordinance, violates the lawful requirements for Notice under the State of Hawaii Revised Statutes § 92-7(a). It also appears that unnoticed meetings took place which also violate the Hawaii Sunshine Laws, HRS Section 92.

These findings come on the heels of a previous discovery that for over 4 decades, the Department of Public Works and the Department of Corporation Counsel entered into contractual agreements with private developers which shifted those developers' subdivision financial obligations to the taxpayers of Maui County involving tens of millions of dollars. Unbelievably, it appears that this is happening once again, this time deceptively obscured in an Upcountry Water Meter Bill.

The process by which Director Goode has slipped in a major change to the island wide Title 18 subdivision ordinance through a proposed bill relating solely to Upcountry water meter applicants, is unlawful and inexcusable.

### **Findings**

I was just informed by the developer of the property next door to my Napili residence that his proposed subdivision was exempt from offsite infrastructure roadway and drainage improvements under a recent change in the subdivision ordinance of the Maui County Code. My research of the agendas and minutes of the Infrastructure and Environmental Management Committee of the Maui County Council found no recent postings for proposed amendments to Title 18 of the Maui County Code. (See Exhibit "A")

After contacting Council Services, I was directed towards a proposed Bill for and ordinance amending section 14.13.060 of the Maui County Code entitled "**Water Meter Issuance Provisions for**

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Christopher Salem  
5100 Lower Honoapiilani Road  
Lahaina, HI 96761

...  
**the Upcountry Water System**", relating to fire protection, which was initially referred from you the Water Resources Committee on June 5, 2015. (See Exhibit "B")

The PUBLIC MEETING NOTICE, WATER RESOURCES COMMITTEE, dated Wednesday June 17, 2015, states as follows; (See Exhibit "C")

The Committee is in receipt of the following;

1. County Communication 15-174, from Council Member from Council Member Gladys C. Baisa, relating to amending Section 14.13.060, Maui County Code, regarding Upcountry water meter installation.

2. Correspondence dated June 9, 2015 from the Department of Corporation Counsel, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.13.060, MAUI COUNTY CODE, ENTITLED "WATER METER ISSUANCE **PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM**", RELATING TO FIRE PROTECTION". The purpose of the proposed bill is to provide **the applicants on the Upcountry priority list** who have been offered water meters from the Department of Water Supply and are able to connect to the department's existing water system shall not be required to make further infrastructure improvements for the fire protection under certain conditions.

On Wednesday, July 22, 2015, the Water Resources Committee, by Public notice conducted further deliberation on the proposed Bill. The description of the proposed bill was identical to the June 9, 2015 PUBLIC MEETING NOTICE - "**UPCOUNTRY WATER METER INSTALLATION**" (See Exhibit "D")

On Wednesday, August 5, 2015, the Water Resources Committee, by Public notice conducted further deliberation on the proposed Bill. The description of the proposed bill was identical to the June 9, 2015 PUBLIC MEETING NOTICE - "**UPCOUNTRY WATER METER INSTALLATION**" (See Exhibit "E")

On Wednesday, September 2, 2015, the Water Resources Committee, by Public Notice conducted further deliberation on the proposed Bill. The description of the proposed bill was identical to the June 9, 2015. PUBLIC MEETING NOTICE - "**UPCOUNTRY WATER METER INSTALLATION**". (See Exhibit "F")

The September 2, 2015 Agenda adds a reference to Section 18.20.040, "**RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM**". And further, "the proposed bill to provide **the applicants on the Upcountry water meter list..**"

The Minutes to the September 2, 2015 Water Resources Committee Meeting "**RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM**" show Public Works Director David Goode was in attendance on the proposed legislation for the **first time**. Director Goode stated to the Committee and the general public; "Thanks for opportunity for joining in this bill that's important for the **Upcountry Water users.**"

On September 18, 2015, you provided a formal report to the Honorable Chair and members of the Maui County Council which clearly stated "The purpose of the bill is to provide that **applicants on the Upcountry Water list** who have been offered water meters from the Department of Water

Christopher Salem  
5100 Lower Honoapiilani Road  
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...

Supply and are connect to the existing water system shall not be required to make further infrastructure improvement for fire protection, subject to certain conditions. The entire communication references **“applicants on the Upcountry Priority list. (See Exhibit “G”)**

The Communication makes reference to the Committee being informed by the Director of Public Works that **“some applicants** could face costly infrastructure requirements for street upgrades as condition of a subdivision approval. This could prevent them from building a home, even if with a waiver from the requirement from fire protection infrastructure”. And further stated; the revised proposed bill adds an exemption from street upgrades **for qualified applicants on the Upcountry Priority List”**.

In fact, it has been discovered that the added language to the bill by Public Works Director David Goode, provides for developers to be exempted from offsite roadway and drainage improvements on subdivisions **throughout the entire County of Maui**. Factually, the final bill and ordinance does not reflect the Public Notices, Agendas, and notice communications authored under your direction.

Consequently, the citizens and taxpayers of Maui County; **without notice or public testimony**, will end up paying for developer’s subdivision roadway and drainage obligations throughout Maui County. This will include all types of subdivisions, including, but not limited to oceanfront developments, and high end developments involving millions of dollars. My neighbor’s subdivision falls in the category. This was not the stated intent of the published bill. The proposed bill, Water Resources Committee reports, and public notices which were limited only to the **applicants on the Upcountry Water Priority List**.

Also, subdivision ordinances fall under the purview of the Chair of the Committee for the Infrastructure and Environmental Management, not with the Water Resources Committee. As such, “A board can only discuss, deliberate, act on, or otherwise consider matters that were included on the board’s agenda as filed will generally define and limit the issues the board can consider at the meeting.” Also, “The statute notice requirement is to among other things, give interested members of the public enough information so that they can decide whether to participate in the meeting”. In addition, Reports by Board Members, “all topics that will be included in **the report must be described on the agenda with enough detail to all the public to understand those topic will be discussed”**. (See Exhibit “H”)

On September 18, 2015, the Council of the County of Maui posting the FIRST READING of bill amending chapter 14.13 and Section 18.20.040, Maui County Code, **relating to water meter applicants on the Upcountry Priority List**; and filing of Communication. On October 6, 2015, a SECOND AND FINAL READING of Bill 70 using the very same language. (See Exhibit “I”)

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Christopher Salem  
5100 Lower Honoapiilani Road  
Lahaina, HI 96761

...

**Legal Enforcement**

The Legal Requirements under the State of Hawaii Sunshine Law have been violated under your direction. The citizens of Maui County have been deprived of their rights. This letter provides notice to immediately retract, repeal, and amend the language of the “**Upcountry Water Meter Installation**” to apply only to “**qualified applicants on the Upcountry Priority List**”. The amended ordinance must eliminate the undisclosed subdivision amendment which shift developer’s financial obligation to the citizens of Maui County Island wide.

Under HRS 92-12, any person may commence a suit in the Circuit Court for the State of Hawaii and any person who willfully violates any provisions of the law shall be guilty of a misdemeanor, and upon conviction, may be summarily removed from the board unless otherwise provided by law. The reviewing Court may order of stay the enforcement of any agency. Therefore, you are hereby provided notice to commence retraction of the subdivision language outside of the limited scope of the applicants for Upcountry Water Meters within 10 days or legal action shall commence against you pursuant to the provisions of the State of Hawaii Sunshine Laws.

**Conclusion**

At no time were the citizens of Maui County informed, properly and lawfully, pursuant to the State of Hawaii Sunshine Laws, **that the subdivision ordinance for the entire island of Maui County was under consideration for amending by the Maui County Council.**

As such, it was never brought to the public’s attention that an amendment was being proposed to the Maui County Code by the Water Resources Committee of the Maui County Council **that would shift private developer’s financial obligations to the taxpayers of Maui County Island wide.** At the time this occurred, a lawsuit was already filed against County officials, including but not limited to Director Goode, for unlawfully shifting developer’s financial obligations to the citizens of Maui County by the failure to implement and, or enforce the very same section of the Maui County Code that was being deceptively amended, at that time, through Mr. Goode’s misleading testimony to your Committee and the general public.

Creating subdivision approvals, under this unlawful ordinance, create the conditions for more Palama Drives and Montana Beach’s. I have been advised that any and all preliminary subdivision approvals, already provided to developers, made pursuant to this unlawfully amended ordinance, are null and void, and, or voidable . I recommend and encourage the repeal of this newly adopted amended ordinance as quickly as possible, before the Council inadvertently creates new liabilities for the County of Maui County and its taxpayers.

Sincerely;

*Christopher Salem*

cc. Mayor Alan Arakawa  
cc. Department of The Corporation Counsel  
cc. Mike White, Chair of Maui County Council

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Christopher Salem  
5100 Lower Honoapiilani Road  
Lahaina, HI 96761

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## Quotes

Page 18 of June 17, 2015 Minutes – Corporation Counsel Attorney Edward S. Kushi

“Madam Chair, if I may? Just to kindah back up (Water) Director Taylor, when our office looked at the bill and we asked the same question, why are you distinguishing Upcountry versus everybody else? There may be some, you need a justification, and the justification is the priority list is it only applies to Upcountry, everyplace else there’s no waiting list. That’s the distinguishing characteristic and the justification to apply this just to UpCountry. Now without that, you want to open it up to everyone, well, again that’s a policy decision, but I think the as is can be supported and defended because of the priority list.

Page 6 of July 22, 2015 Minutes – Committee Chair Baisa

“It is Chair's recommendation that we try to help those who have been on this list forever and who simply want one meter so that they can do something with their land that we try to take care of them first. And we give them that opportunity to get that meter. And yes, there are others that wanna build subdivisions, there are people who wanna subdivide into dozens of lots and hundreds of lots. But our idea was we wanted to help with the small person first. And so that's how this legislation is written..”

## Notes

Council Member Mike Victorino and Corp Counsel Attorney Ed Kushi were not present at the September 2, 2015 first reading of the proposed Bill which was Public Works Director David Goode’s first and only presentation to the Water Resources Committee.

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**State of Hawaii  
Sunshine Law  
Violation**

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**Council - Infrastructure & [All](#)  
Environmental [Archives \(View](#)  
– **Management Committee [Archived\)](#)**  
**(2015-2016)****

7/11/2016 - Agenda

▣ 5/31/2016 - List of Matters

▣ 3/22/2016 - Minutes

▣ 3/22/2016 - Agenda

▣ 3/14/2016 - Minutes

▣ 3/14/2016 - Agenda

▣ 3/1/2016 - Minutes

▣ 3/1/2016 - Agenda

9:00 a.m.

▣ 2/26/2016 - Committee Report 16-28  
*AUTHORIZING THE INSTALLATION OF  
UTILITY POLES FOR THE KAHOMA  
VILLAGE PROJECT (LAHAINA)*

▣ 2/26/2016 - Committee Report 16-27  
*PARKING ON KAHAWAI STREET  
(WAILUKU)*

▣ 2/1/2016 - Minutes

▣ 2/1/2016 - Agenda

▣ 1/25/2016 - Minutes

▣ 1/25/2016 - Agenda

▣ 12/4/2015 - Committee Report 15-169  
*GRANT OF SEWERLINE EASEMENT  
TO HOSPICE MAUI, INC. (WAILUKU)*

▣ 12/4/2015 - Committee Report 15-168  
*TERMINATION OF LICENSE  
AGREEMENT AFFECTING LOTS 143,  
144, AND 145 OF THE PUKALANI LOTS  
AT KEAHUA (PUKALANI)*

▣ 12/1/2015 - Agenda

▣ 11/16/2015 - Agenda

▣ 11/13/2015 - List of Matters

▣ 10/12/2015 - Minutes

▣ 10/12/2015 - Agenda

▣ 9/28/2015 - Minutes

▣ 9/28/2015 - Agenda

▣ 9/14/2015 - Agenda (CANCELED)

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9/4/2015 - Committee Report 15-118  
EXCHANGE OF REAL PROPERTY TO  
REALIGN KAUPILI ROAD (LANAI)

☐ 8/31/2015 - Minutes

☐ 8/31/2015 - Agenda

☐ 8/17/2015 - Minutes

☐ 8/17/2015 - Agenda

☐ 8/7/2015 - Committee Report 15-95  
OUTDOOR LIGHTING STANDARDS

☐ 8/7/2015 - Committee Report 15-94  
ACCEPTING SEWERLINE EASEMENT  
AND SEWER SYSTEM  
IMPROVEMENTS WITHIN KEHALANI  
MAUKA (LARGE-LOT) SUBDIVISION  
NO. 2 (WAILUKU)

☐ 8/7/2015 - Committee Report 15-93  
ACCEPTING SEWER LINE EASEMENT  
AND SEWER SYSTEM  
IMPROVEMENTS WITHIN THE MAUI  
LANI PHASE 6 SUBDIVISION  
(KAHULUI)

☐ 8/7/2015 - Committee Report 15-92  
ACCEPTING SEWER LINE EASEMENT  
FROM ALEXANDER & BALDWIN, LLC  
AFFECTING AMALA PLACE AND  
HOBRON AVENUE (KAHULUI)

☐ 7/24/2015 - Committee Report 15-83  
VEHICLE WINDSHIELD  
REQUIREMENTS

☐ 7/24/2015 - Committee Report 15-82  
AMENDING THE HOURS OF ONE-WAY  
CONDITIONS ON UKIU ROAD  
(MAKAWAO)

☐ 7/24/2015 - Committee Report 15-81  
DEDICATION OF EHA STREET  
(WAILUKU)

☐ 7/24/2015 - Committee Report 15-80  
ACCEPTING REMNANT LOTS  
CONTAINING PORTIONS OF PUUKOLII  
ROAD (KAANAPALI)

☐ 7/24/2015 - Committee Report 15-79  
UNITED STATES ENVIRONMENTAL

PROTECTION AGENCY/STATE  
DEPARTMENT OF HEALTH CONSENT  
DECREE QUARTERLY REPORT

☐ 7/20/2015 - Minutes

☐ 7/20/2015 - Agenda

☐ 7/7/2015 - Committee Report 15-64

GRANTING WATERLINE EASEMENTS  
TO HALEAKALA RANCH CO.,  
KAONOULU RANCH LLLP AND MAUI  
LAND & PINEAPPLE CO., INC.,  
AFFECTING PIIHOLO RD., OLINDA RD.  
AND HANAMU RD./KEALALOA AVE.  
(MAKAWAO)

☐ 7/7/2015 - Committee Report 15-65

GRANTING WATERLINE EASEMENTS  
TO MAUI LAND & PINEAPPLE  
COMPANY, INC., AFFECTING  
MAKAWAO AVENUE AND MAKANI  
ROAD (MAKAWAO)

7/7/2015 - Committee Report 15-66

ACCEPTING DEDICATION OF ROADWAY  
LOTS FOR THE PEAHI HUI LAND  
SUBDIVISION (HAIKU)

☐ 7/7/2015 - Committee Report 15-67

ACCEPTING DEDICATION OF  
SEWERLINE EASEMENT FOR THE  
DOLE ADMINISTRATION BUILDING  
PROJECT (LANAI)

☐ 7/7/2015 - Committee Report 15-68

ACCEPTING DEDICATION OF  
ROADWAY LOTS ON KAMEHAMEHA  
AVENUE AND MAUI LANI PARKWAY  
(KAHULUI)

☐ 7/7/2015 - Committee Report 15-69

DEVELOPMENT AND DEDICATION OF  
WAILUKU WELL 2, TANK AND  
TRANSMISSION PIPELINE

☐ 6/29/2015 - Minutes

☐ 6/29/2015 - Agenda

☐ 6/15/2015 - Minutes

☐ 6/15/2015 - Agenda

☐ 4/7/2015 - Committee Report 15-32

GRANT OF SEWERLINE EASEMENT  
TO WARMENHOVEN SPIRIT TRUST AT  
MAKENA ROAD (MAKENA)

☐ 4/7/2015 - Committee Report 15-31

DISPOSITION OF HUI ROAD "G"  
(NAPILI)

☐ 3/20/2015 - Committee Report 15-23

STATE-COUNTY MEMORANDUM OF  
AGREEMENT IMPLEMENTATION OF  
COUNTY FEDERAL-AID HIGHWAY  
PROJECTS AND PROGRAMS

☐ 3/16/2015 - Minutes

☐ 3/16/2015 - Item of Interest

A BILL FOR AN ORDINANCE  
AMENDING SECTION 16.26B.101,  
MAUI COUNTY CODE, TO ELIMINATE  
EXEMPTIONS IN THE BUILDING CODE  
OF THE COUNTY OF MAUI RELATING  
TO LANDS WITHIN THE

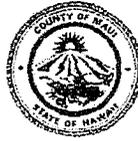
CONSERVATION DISTRICT OR LANDS  
DESIGNATED AS HAWAIIAN HOME  
LANDS

- ▣ 3/16/2015 - Agenda
- ▣ 3/2/2015 - Minutes
- ▣ 3/2/2015 - Agenda
- ▣ 2/27/2015 - Item of Interest  
*IEM-59, revised proposed resolution,  
ACCEPTING DEDICATION OF  
ROADWAY LOTS FOR THE IAO  
PARKSIDE SUBDIVISION PURSUANT  
TO SECTION 3.44.015, MAUI COUNTY  
CODE*
- ▣ 2/27/2015 - Item of Interest  
*IEM-59, revised proposed resolution,  
ACCEPTING DEDICATION OF A  
ROADWAY LOT FOR THE EHA  
STREET EXTENSION SUBDIVISION  
PURSUANT TO SECTION 3.44.015,  
MAUI COUNTY CODE*
- ▣ 2/26/2015 - Item of Interest  
*IEM-60, A BILL FOR AN ORDINANCE  
TO AMEND THE ACQUISITION,  
EXCHANGE AND APPRAISAL  
REQUIREMENTS PERTAINING TO  
INFRASTRUCTURE-RELATED  
PROPERTY*
- ▣ 2/18/2015 - Committee Report 15-12  
*RESTORATION OF MAUI'S CORAL  
REEFS*
- ▣ 2/10/2015 - Minutes
- ▣ 2/10/2015 - Agenda
- ▣ 2/2/2015 - Minutes
- ▣ 2/2/2015 - Agenda
- ▣ 1/27/2015 - Item of Interest  
*IEM-27, revised proposed resolution,  
RECOGNIZING THE IMPORTANCE OF  
PROTECTING AND ENHANCING THE  
REEF ECOSYSTEMS IN MAUI  
COUNTY*
- ▣ 1/12/2015 - Minutes

**State of Hawaii  
Sunshine Law  
Violation**

2

DANNY A. MATEO  
County Clerk



11/25  
JOSIAH K. NISHITA  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

June 5, 2015

Honorable Gladys C. Baisa, Chair  
Water Resources Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

OFFICE OF THE  
COUNTY CLERK

2015 JUN -5 PM 2:25

RECEIVED

Dear Chair Baisa:

Respectfully transmitted is a copy of COUNTY COMMUNICATION NO. 15-174, from Councilmember Gladys C. Baisa, that was referred to your Committee by the Council of the County of Maui at its meeting of June 5, 2015.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Nishita".

JOSIAH K. NISHITA  
Deputy County Clerk

/jym

Enclosure

cc: Director of Council Services

**REQUEST FOR LEGAL SERVICES**

**Date:** June 9, 2015  
**From:** Gladys C. Baisa, Chair  
Water Resources Committee

**TRANSMITTAL**  
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Edward S. Kushi, Jr., Esq.

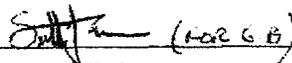
CONFIDENTIAL  
2015 JUN -9 PM 3:23

**Subject:** UPCOUNTRY WATER METER INSTALLATION (WR-28)

**Background Data:** Proposed bill for an ordinance amending section 14.13.060, Maui County Code, entitled "Water Meter Issuance Provisions For the Upcountry Water System", relating to fire protection.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

RECEIVED  
2015 JUN -9 PM 4:20  
OFFICE OF THE  
COUNTY COUNCIL

Requestor's signature  Gladys C. Baisa	Contact Person Kimberley Willenbrink (Telephone Extension: 7761)
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- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): Wednesday, June 10, 2015 at 9:00 a.m.  
**REASON:** For posting on the June 16, 2015 Water Resources Committee agenda.

**FOR CORPORATION COUNSEL'S RESPONSE**

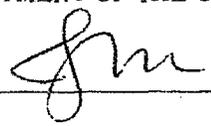
ASSIGNED TO:		ASSIGNMENT NO.
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**TO REQUESTOR:**  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

**COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):** \_\_\_\_\_  
See attached draft.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 6/9/15

By 

(Rev. 7/03)

ORDINANCE NO. \_\_\_\_\_

**DRAFT**

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.13.060,  
MAUI COUNTY CODE, ENTITLED "WATER METER ISSUANCE PROVISIONS  
FOR THE UPCOUNTRY WATER SYSTEM", RELATING TO FIRE PROTECTION

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 14.13.060, Maui County Code, is amended to read  
as follows:

**"14.13.060 Installation of water meters and issuance of water meter reservations.** A. If additional source for the upcountry water system becomes available, the director shall process applications for water meters in the order of the priority list up to the average day capacity of any additional source with allowance for the department's operational standards. The department shall not issue a water meter to any applicant who is not on the priority list until all applicants who are on said priority list have either accepted water service or have been removed from the priority list pursuant to this chapter.

B. Prior to the installation of a water meter, an applicant shall complete water system improvements to the premises and/or to the department's water system, provided that the improvements are necessary to meet the water system requirements set forth in this article, or to meet the fire protection requirements pursuant to the County's fire code.

C. If an applicant from the priority list is unable to accept water service immediately, the department may issue a reservation for water service up to the requested allocation available at the time the request is made, in accordance with terms and conditions set forth in section 14.07.090 of this code.

D. Applicants on the priority list who have been offered water meters from the department and who are able to connect to the department's existing water system which is adequate to supply

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domestic potable and irrigation water demand shall not be required to make further infrastructure improvements for fire protection if:

1. The water meter application is for a single meter or single meter upgrade per lot for three lots or less; and

2. The owner of such lot or lots enters into an agreement with the department, whereby such lot owner agrees to accept such water service as the department is able to render from its existing facilities and shall execute a written release in favor of the department for all claims on account of any inadequacy in the department's system or inadequacy of water supply to the premises for fire protection. Such agreement shall be recorded with the bureau of conveyances or the land court of the State, shall run with the land, and unless released or cancelled by the department, shall bind the owner of the lot or lots and bind and constitute notice to all subsequent grantees, successors, assignees, mortgagees, lienors, and other persons claiming any interest in the lot or lots."

SECTION 2. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

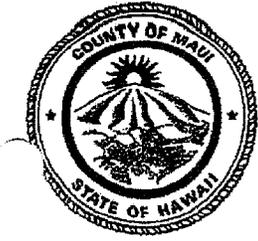
**DRAFT**

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JENNIFER M.P.E. OANA  
Department of the Corporation Counsel  
County of Maui

**State of Hawaii  
Sunshine Law  
Violation**

2



# PUBLIC MEETING NOTICE

## WATER RESOURCES COMMITTEE

COUNCIL OF THE COUNTY OF MAUI

[www.MauiCounty.us/WR](http://www.MauiCounty.us/WR)

Committee Chair  
Gladys C. Baisa

Committee Vice-Chair  
Michael P. Victorino

Voting Members:  
Robert Carroll  
Elle Cochran  
Don Couch  
Stacy Crivello  
Mike White

Non-Voting Members:  
Don S. Guzman  
Riki Hokama

**Wednesday, June 17, 2015**  
**9:00 a.m.**

MEETING SITE:  
Council Chamber  
Kalana O Maui Building, 8<sup>th</sup> Floor  
200 South High Street  
Wailuku, Hawaii

RECEIVED  
2015 JUN 10 AM 10:18  
OFFICE OF THE  
COUNTY CLERK

### AGENDA

#### **UPCOUNTRY WATER METER INSTALLATION (WR-28)**

**DESCRIPTION:**

The Committee is in receipt of the following:

1. County Communication 15-174, from Councilmember Gladys C. Baisa, related to amending Section 14.13.060, Maui County Code, regarding Upcountry water meter installation.
2. Correspondence dated June 9, 2015, from the Department of the Corporation Counsel, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.13.060, MAUI COUNTY CODE, ENTITLED "WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM", RELATING TO FIRE PROTECTION". The purpose of the proposed bill is to provide that applicants on the Upcountry priority list who have been offered water meters from the Department of Water Supply and are able to connect to the department's existing water system shall not be required to make further infrastructure improvements for fire protection under certain conditions.

**STATUS:**

The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without revisions. The Committee may also consider the filing of County Communication 15-174 and other related action.

#### **REMOTE TESTIMONY SITES**

**Hana**

Council District Office  
Hana Community Center  
5091 Uakea Road  
Hana, Hawaii

**Lanai**

Council District Office  
Lanai Community Center  
8<sup>th</sup> Street  
Lanai City, Hawaii

**Molokai**

Council District Office  
100 Ainoa Street  
Kaunakakai, Hawaii

MORE →

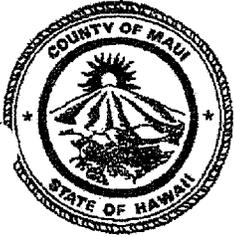
<b>CONTACT INFORMATION</b>	Office of Council Services 200 South High Street Wailuku, Hawaii 96793 <a href="http://www.MauiCounty.us/WR">www.MauiCounty.us/WR</a>	(808) 270-7838 (phone) (800) 272-0098 (toll-free from Lanai) (800) 272-0026 (toll-free from Molokai) (808) 270-7686 (fax)
Committee Staff: Kimberley Willenbrink and Clarita Balala		
<b>TESTIMONY</b>	For information on testifying please visit <a href="http://www.MauiCounty.us/how-to-testify">www.MauiCounty.us/how-to-testify</a> or contact the Office of Council Services.	
<b>DISABILITY ACCESS</b>	People with disabilities requiring special accommodations should contact the Office of Council Services at least three working days prior to the meeting date.	
<b>LIVE CABLECAST</b>	Available on Akaku: Maui Community Media, Channel 53.	

*AGENDA ITEMS ARE SUBJECT TO CANCELLATION.*

wr:150617:kcw

**State of Hawaii  
Sunshine Law  
Violation**

98



# PUBLIC MEETING NOTICE

## WATER RESOURCES COMMITTEE

COUNCIL OF THE COUNTY OF MAUI

[www.MauiCounty.us/WR](http://www.MauiCounty.us/WR)

Committee Chair  
Gladys C. Baisa

Committee Vice-Chair  
Michael P. Victorino

Voting Members:  
Robert Carroll  
Elle Cochran  
Don Couch  
Stacy Crivello  
Mike White

Non-Voting Members:  
Don S. Guzman  
Riki Hokama

**Wednesday, July 22, 2015**  
**9:00 a.m.**

MEETING SITE:  
Council Chamber  
Kalana O Maui Building, 8<sup>th</sup> Floor  
200 South High Street  
Wailuku, Hawaii

RECEIVED  
2015 JUL 16 AM 8:59  
OFFICE OF THE  
COUNTY CLERK

## AGENDA

### UPCOUNTRY WATER METER INSTALLATION (WR-28)

**DESCRIPTION:**

The Committee is in receipt of the following:

1. County Communication 15-174, from Councilmember Gladys C. Baisa, related to amending Section 14.13.060, Maui County Code, regarding fire protection for Upcountry water meter installation.
2. Correspondence dated July 15, 2015, from the Department of the Corporation Counsel, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, ENTITLED "WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM", RELATING TO FIRE PROTECTION." The purpose of the proposed bill is to provide that applicants on the Upcountry priority list who have been offered water meters from the Department of Water Supply and are able to connect to the department's existing water system shall not be required to make further infrastructure improvements for fire protection under certain conditions.

**STATUS:**

The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without revisions. The Committee may also consider the filing of County Communication 15-174 and other related action.

MORE →

**REMOTE TESTIMONY SITES**

**Hana**

Council District Office  
Hana Community Center  
5091 Uakea Road  
Hana, Hawaii

**Lanai**

Council District Office  
Lanai Community Center  
8<sup>th</sup> Street  
Lanai City, Hawaii

**Molokai**

Council District Office  
100 Ainoa Street  
Kaunakakai, Hawaii

**CONTACT INFORMATION**

Office of Council Services  
200 South High Street  
Wailuku, Hawaii 96793  
[www.MauiCounty.us/WR](http://www.MauiCounty.us/WR)

(808) 270-7838 (phone)  
(800) 272-0098 (toll-free from Lanai)  
(800) 272-0026 (toll-free from Molokai)  
(808) 270-7686 (fax)

Committee Staff: Kimberley Willenbrink and Clarita Balala

**TESTIMONY**

For information on testifying please visit [www.MauiCounty.us/how-to-testify](http://www.MauiCounty.us/how-to-testify) or contact the Office of Council Services.

If written testimony is submitted at the meeting site, 16 copies are requested to ensure distribution at the meeting.

**DISABILITY ACCESS**

People with disabilities requiring special accommodations should contact the Office of Council Services at least three working days prior to the meeting date.

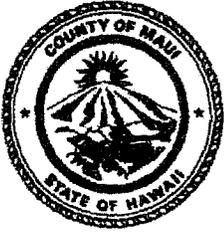
**LIVE CABLECAST**

Available on Akaku: Maui Community Media, Channel 53.

*AGENDA ITEMS ARE SUBJECT TO CANCELLATION.*

**State of Hawaii  
Sunshine Law  
Violation**

9



# PUBLIC MEETING NOTICE

## WATER RESOURCES COMMITTEE

COUNCIL OF THE COUNTY OF MAUI

[www.MauiCounty.us/WR](http://www.MauiCounty.us/WR)

Committee Chair  
Gladys C. Baisa

Committee Vice-Chair  
Michael P. Victorino

Voting Members:  
Robert Carroll  
Elle Cochran  
Don Couch  
Stacy Crivello  
Mike White

Non-Voting Members:  
Don S. Guzman  
Riki Hokama

**Wednesday, August 5, 2015**  
**9:00 a.m.**

MEETING SITE:  
Council Chamber  
Kalana O Maui Building, 8<sup>th</sup> Floor  
200 South High Street  
Wailuku, Hawaii

RECEIVED  
2015 JUL 30 AM 9:31  
OFFICE OF THE  
COUNTY CLERK

### AGENDA

#### **UPCOUNTRY WATER METER INSTALLATION (WR-28)**

**DESCRIPTION:**

The Committee is in receipt of the following:

1. County Communication 15-174, from Councilmember Gladys C. Baisa, relating to amending Section 14.13.060, Maui County Code, relating to Upcountry water meter installation.
2. Correspondence dated July 29, 2015, from the Department of the Corporation Counsel, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, ENTITLED 'WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM', RELATING TO FIRE PROTECTION." The purpose of the revised proposed bill is to provide that applicants on the Upcountry priority list who have been offered water meters from the Department of Water Supply and are able to connect to the Department's existing water system shall not be required to make further infrastructure mainline improvements for fire protection under certain conditions.

**STATUS:**

The Committee may consider whether to recommend passage of the revised proposed bill on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 15-174 and other related action.

MORE →

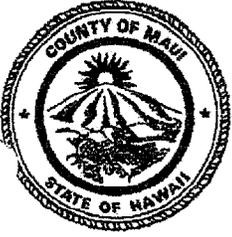
<b>REMOTE TESTIMONY SITES</b>		
<p><b>Hana</b>                      Council District Office                      Hana Community Center                      5091 Uakea Road                      Hana, Hawaii</p>	<p><b>Lanai</b>                      Council District Office                      Lanai Community Center                      8<sup>th</sup> Street                      Lanai City, Hawaii</p>	<p><b>Molokai</b>                      Council District Office                      100 Ainoa Street                      Kaunakakai, Hawaii</p>
<b>CONTACT INFORMATION</b>	<p>Office of Council Services                      200 South High Street                      Wailuku, Hawaii 96793  <a href="http://www.MauiCounty.us/WR">www.MauiCounty.us/WR</a></p>	<p>(808) 270-7838 (phone)                      (800) 272-0098 (toll-free from Lanai)                      (800) 272-0026 (toll-free from Molokai)                      (808) 270-7686 (fax)</p>
<b>TESTIMONY</b>	<p>Committee Staff: Kimberley Willenbrink and Clarita Balala</p> <p>For information on testifying please visit <a href="http://www.MauiCounty.us/how-to-testify">www.MauiCounty.us/how-to-testify</a> or contact the Office of Council Services.</p> <p>If written testimony is submitted at the meeting site, 16 copies are requested to ensure distribution at the meeting.</p>	
<b>DISABILITY ACCESS</b>	<p>People with disabilities requiring special accommodations should contact the Office of Council Services at least three working days prior to the meeting date.</p>	
<b>LIVE CABLECAST</b>	<p>Available on Akaku: Maui Community Media, Channel 53.</p>	

*AGENDA ITEMS ARE SUBJECT TO CANCELLATION.*

wr:150902:kcw

**State of Hawaii  
Sunshine Law  
Violation**





# PUBLIC MEETING NOTICE

## WATER RESOURCES COMMITTEE

COUNCIL OF THE COUNTY OF MAUI

www.MauiCounty.us/WR

Committee Chair  
Gladys C. Baisa

Committee Vice-Chair  
Michael P. Victorino

Voting Members:  
Robert Carroll  
Elle Cochran  
Don Couch  
Stacy Crivello  
Mike White

Non-Voting Members:  
Don S. Guzman  
Riki Hokama

**Wednesday, September 2, 2015**  
**9:00 a.m.**

MEETING SITE:  
Council Chamber  
Kalana O Maui Building, 8<sup>th</sup> Floor  
200 South High Street  
Wailuku, Hawaii

RECEIVED  
2015 AUG 27 AM 9:39  
OFFICE OF THE  
COUNTY CLERK

### AGENDA

#### **UPCOUNTRY WATER METER INSTALLATION (WR-28)**

**DESCRIPTION:**

The Committee is in receipt of the following:

1. County Communication 15-174, from Councilmember Gladys C. Baisa, relating to amending Section 14.13.060, Maui County Code, relating to Upcountry water meter installation.
2. Correspondence dated July 29, 2015, from the Department of the Corporation Counsel, transmitting a revised proposed bill to provide that applicants on the Upcountry priority list offered water meters from the Department of Water Supply and who are able to connect to the Department's existing water system shall not be required to make further infrastructure mainline improvements for fire protection under certain conditions.
3. Correspondence dated August 26, 2015, from the Department of the Corporation Counsel, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM." The purpose of the revised proposed bill is to provide that applicants on the Upcountry priority list offered water meters from the Department of Water Supply and who are able to connect to the Department's existing water system shall not be required to make further infrastructure mainline improvements for fire protection or improvements to existing streets under certain conditions.

**STATUS:**

The Committee may consider whether to recommend passage of the revised proposed bill on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 15-174 and other related action.

MORE →

<b>REMOTE TESTIMONY SITES</b>		
<p><b>Hana</b> Council District Office Hana Community Center 5091 Uakea Road Hana, Hawaii</p>	<p><b>Lanai</b> Council District Office Lanai Community Center 8<sup>th</sup> Street Lanai City, Hawaii</p>	<p><b>Molokai</b> Council District Office 100 Ainoa Street Kaunakakai, Hawaii</p>
<b>CONTACT INFORMATION</b>	<p>Office of Council Services 200 South High Street Wailuku, Hawaii 96793 <b>www.MauiCounty.us/WR</b></p> <p>Committee Staff: Kimberley Willenbrink and Clarita Balala</p>	<p>(808) 270-7838 (phone) (800) 272-0098 (toll-free from Lanai) (800) 272-0026 (toll-free from Molokai) (808) 270-7686 (fax)</p>
<b>TESTIMONY</b>	<p>For information on testifying please visit <b>www.MauiCounty.us/how-to-testify</b> or contact the Office of Council Services.</p> <p>If written testimony is submitted at the meeting site, 16 copies are requested to ensure distribution at the meeting.</p>	
<b>DISABILITY ACCESS</b>	<p>People with disabilities requiring special accommodations should contact the Office of Council Services at least three working days prior to the meeting date.</p>	
<b>LIVE CABLECAST</b>	<p>Available on Akaku: Maui Community Media, Channel 53.</p>	

*AGENDA ITEMS ARE SUBJECT TO CANCELLATION.*

wr:150722:kcw

**State of Hawaii  
Sunshine Law  
Violation**

2

COUNCIL OF THE COUNTY OF MAUI  
**WATER RESOURCES COMMITTEE**

September 18, 2015

**Committee  
Report No. 15-138**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Water Resources Committee, having met on June 17, 2015, July 22, 2015, August 5, 2015, and September 2, 2015, makes reference to County Communication 15-174, from Councilmember Gladys C. Baisa, transmitting the matter of amending Section 14.13.060, Maui County Code, relating to Upcountry water meter installation.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.13.060, MAUI COUNTY CODE, ENTITLED 'WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM', RELATING TO FIRE PROTECTION."

The purpose of the proposed bill is to provide that applicants on the Upcountry Priority List who have been offered water meters from the Department of Water Supply and are able to connect to the existing water system shall not be required to make further infrastructure improvements for fire protection, subject to certain conditions.

Your Committee notes Section 14.13.040(A), Maui County Code, provides the following background:

On March 16, 1993, the upcountry water system was found to have insufficient water supply developed for fire protection, domestic, and irrigation purposes to take on new or additional water services without detriment to those already served in the regulated area. Since November 2, 1994, the department has maintained a priority list of premises, organized by the date applications for new or additional water service were received for such premises.

COUNCIL OF THE COUNTY OF MAUI

# WATER RESOURCES COMMITTEE

Page 2

Committee  
Report No. 15-138

Effective as of January 1, 2013, the department will not accept any new applications to be placed on the priority list.

Your Committee has sought solutions to assist applicants on the Upcountry Priority List to get water meters so they "may build a home on their property for themselves or their family," as stated in the proposed bill. Your Committee notes the Upcountry Priority List currently has more than 1,800 applicants.

Your Committee further notes the Department has been offering water meters to designated applicants on the Upcountry Priority List. Costly infrastructure requirements for fire protection have prevented certain applicants from accepting offered water meters.

Your Committee was informed by the Director of Public Works some applicants could also face costly infrastructure requirements for street upgrades as a condition of subdivision approval. This could prevent them from building a home, even if with a waiver from the requirement for fire protection infrastructure.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM." The revised proposed bill adds an exemption from street upgrades for qualified applicants on the Upcountry Priority List.

Your Committee voted to further revise the revised proposed bill to assist applicants who did not accept offered water meters after January 1, 2013, because of costly infrastructure requirements. Subject to various conditions, such applicants may be returned to the Upcountry Priority List at their prior placement.

Your Committee voted 6-0 to recommend passage of the revised proposed bill, as further revised, on first reading and filing of the communication. Committee Chair Baisa and members Carroll, Cochran,

COUNCIL OF THE COUNTY OF MAUI  
**WATER RESOURCES COMMITTEE**

Page 3

**Committee**  
**Report No. 15-138**

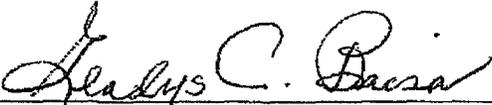
Couch, Crivello, and White voted "aye." Committee Vice-Chair Victorino was excused.

Your Committee is in receipt of a further revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2015), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-174 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
GLADYS C. BAISSA, Chair

wr:cr:15028aa:kcw