November 12, 2025

MEMO TO: DRIP-20 File

F R O M: Tamara Paltin, Chair Jamara A. M. Saltin

Disaster Recovery, International Affairs, and Planning Committee

SUBJECT: TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO

BILL 161 (2025), IMPOSING INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY

PLAN AREA (DRIP-20)

The attached informational document pertains to Item 20 on the Committee's agenda.

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Attachment

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RICHARD T. BISSEN, JR. Mayor

KATE L. K. BLYSTONE Director

ANA LILLIS
Deputy Director



DEPARTMENT OF PLANNING

COUNTY OF MAUI ONE MAIN PLAZA 2200 MAIN STREET, SUITE 315 WAILUKU, MAUI, HAWAI'I 96793



APPROVED FOR TRANSMITTAL

well Bring 9-19-25

September 19, 2025

Honorable Richard T. Bissen, Jr. Mayor, County of Maui 200 South High Street Wailuku, Hawai'i 96793

For Transmittal to:

Honorable Alice Lee, Chair and Members of the Maui County Council 200 South High Street Wailuku, Hawai'i 96793

Dear Chair Lee and Council Members:

SUBJECT: A BILL FOR AN ORDINANCE IMPOSING INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA

Background Information

On May 16, 2025, the County Council adopted Resolution 25-115 (attached) referring a proposed Bill to the Maui Planning Commission and the Board of Water Supply for transmittal of their findings and recommendations to the Council. The Bill proposes to add Chapter 19.98 to Title 19 of the Maui County Code (MCC) establishing interim restrictions on new private swimming pools in the West Maui Community Plan Area.

Board of Water Supply Action

As discussed in the attached Planning Department's (Department) September 9, 2025 report to the Maui Planning Commission, as requested by the Council, the Board of Water Supply (Board) discussed Resolution 25-115 during their meetings held on June 19 and July 17, 2025. The Board supports the proposed Bill with comments as noted in the attached July 17, 2025 letter from its Chair to the County Council. Additionally, attached to the Board's letter is a comment letter from the Department of Water Supply's (DWS) Director, John Stufflebean.

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Planning Department Recommended Modifications

The attached September 9, 2025 report to the Maui Planning Commission was provided by the Planning Department (Department) with its analysis and recommendation of approval of the proposed bill with modifications for the Commission's consideration. Following is a brief synopsis of the Department's recommendations – please see the attached report for additional background:

- 1. <u>Proposed Modification Bill Structure</u>: For ease, the Department recommended that the Bill's proposed two separate duration sections be combined as follows (proposed new text shown in <u>underline bold</u>):
 - "19.98.040 Restrictions. No County employee or agency may issue a permit for the construction of a new private swimming pool in the West Maui community plan area until the sooner of December 31, 2028, or one or more of the following conditions is satisfied:
 - A. All three phases of the West Maui groundwater availability study are complete, consisting of
 - 1. Phase 1: Field reconnaissance, securing permits, study design, and developing monitoring well specifications.
 - 2. Phase 2: Well monitoring and needs assessment for additional wells.
 - 3. Phase 3: Drilling additional wells warranted by Phases I and 2 and collecting at least one year of production data for those wells.
 - B. The State commission on water resource management determines that reliable capacity for the West Maui system, including pre-fire system requirements, exceeds demand.
 - C. The department of water supply develops or acquires additional West Maui water source sufficient to address the rebuild of structures lost in the August 2023 Maui wildfires and the domestic water needs of new residential development for which permits are sought."
- 2. <u>Proposed Modification Enforcement:</u> The Department recommended removing the proposed Bill's Section 19.98.070-Penalties because existing MCC Chapter 19.530-Enforcement already addresses any potential violation of the proposed ordinance.
- 3. Swimming Pool Covers and other Water Conservation Measures: The report to the Commission included correspondence from the Board of Water Supply and the Director of the Department of Water Supply mentioning the need for additional water conservation efforts, including the potential use of swimming pool covers as suggested by the Director of the Department of Water Supply. As such, the Department encouraged the Commission to provide any further comment it may have pertaining to swimming pool covers and/or other water conservation measures, which the Department would forward to the Council for its consideration.

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4. Proposed Modification - Location of the Amendment within the MCC: For the reasons noted in the attached report to the Maui Planning Commission, the Department does not believe that the proposed ordinance should be located within Title 19 but may be better located in Title 16 - Buildings and Construction, or Title 14 - Public Services, which includes a section on water and subsection on water conservation. However, the Directors of Public Works and Water Supply both indicated a preference that the Ordinance not be located within Title 16 or 14, respectively. While including the proposed Ordinance in Title 19 will not cause significant impacts to property owners, as noted in the attached report, there are some concerns by the Department, which if placed in Title 19 would require further coordination with other Departments as well as a future repeal of the Ordinance (with Planning Commission review) once it has expired. The Department requested that if the Commission has any comments on the location of this Ordinance within the MCC, then the Department will forward them to the Council.

Planning Commission Recommendations

A public hearing was held by the Maui Planning Commission on September 9, 2025. A link to the minutes from the Maui Planning Commission meeting has been provided under the list of attachments at the end of this report. The following is a summary and action taken during the Commission's meeting:

• Department Recommended Modifications #1 and #2: With respect to the Department's proposed modifications #1 and #2 above, the Commission recommended approval of both with further modification to #1. Specifically, the Commission recommended extending the duration of the proposed Bill from December 31, 2028 to December 31, 2030. Additionally, instead of just one of the three conditions needing to be satisfied prior to issuing permits for private swimming pools before December 31, 2030, the Commission felt that all three conditions should be satisfied. As recommended by the Commission, this section could be revised as such:

"19.98.040 Restrictions. No County employee or agency may issue a permit for the construction of a new private swimming pool in the West Maui community plan area until the sooner of December 31, 2030, or all-one or more of the following conditions being is satisfied:

- A. All three phases of the West Maui groundwater availability study are complete, consisting of
 - 1. Phase 1: Field reconnaissance, securing permits, study design, and developing monitoring well specifications.
 - 2. Phase 2: Well monitoring and needs assessment for additional wells.
 - 3. Phase 3: Drilling additional wells warranted by Phases I and 2 and collecting at least one year of production data for those wells.
- B. The State commission on water resource management determines that reliable capacity for the West Maui system, including pre-fire system requirements, exceeds demand.

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- C. The department of water supply develops or acquires additional West Maui water source sufficient to address the rebuild of structures lost in the August 2023 Maui wildfires and the domestic water needs of new residential development for which permits are sought."
- Swimming Pool Covers and other Water Conservation Measures: The Commission urged the Council to consider the following additional water conservation measures and other actions related to water conservation: swimming pool covers for proposed and existing pools; irrigating at certain times of the day or identifying days that irrigation is not allowed; using non-potable or grey water for irrigation; use of native plants specific to area and elevation; other water conservation measures; and urging the Council to advance the Water Conservation Bill being proposed by the Department of Water Supply.
- <u>Location of the Amendment in MCC</u>: The Commission recommended that the Council consider placing this ordinance in Title 16.

Thank you for your attention and consideration. Should further clarification be necessary, please feel free to contact me.

Sincerely,

KATE L. K. BLYSTONE

Director

Attachments:

cc:

- Department Transmittal Report to the Maui PC September 9, 2025
- Maui PC Minutes, September 9, 2025 Link: https://mauicounty.gov/ArchiveCenter/ViewFile/Item/33099
- Resolution 25-48

Jordan Molina, Director of Public Works (pdf)
John Stufflebean, Director of Water Supply (pdf)

Ana Lillis, Deputy Planning Director (pdf)

Gregory Pfost, Administrative Planning Officer (pdf)

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RICHARD T. BISSEN, JR. Mayor

KATE L. K. BLYSTONE Director

ANA LILLIS
Deputy Director





DEPARTMENT OF PLANNING

COUNTY OF MAUI ONE MAIN PLAZA 2200 MAIN STREET, SUITE 315 WAILUKU, MAUI, HAWAI'I 96793

September 9, 2025

MEMORANDUM

TO:

MAUI PLANNING COMMISSION

FROM:

KATE L. K. BLYSTONE, Directo

SUBJECT:

A BILL FOR AN ORDINANCE IMPOSING INTERIM RESTRICTIONS ON NEW

PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN

AREA

The attached Bill proposes to add Chapter 19.98 to Title 19 of the Maui County Code (MCC) establishing interim restrictions on new private swimming pools in the West Maui Community Plan Area. While the Planning Department (Department) is supportive of water conservation efforts such as that proposed in the Bill, it has a minor concern regarding the location of the proposed amendment within Title 19 and offers minor revisions in addition to other recommendations pertaining to water conservation for the Commission's consideration.

Background Information

County Council Direction:

On May 16, 2025, the County Council adopted Resolution 25-115 (attached) referring a proposed Bill to the Maui Planning Commission and the Board of Water Supply for transmittal of their findings and recommendations to the Council. For context on the Council's decision, attached is a highlighted portion of the transcript minutes from the Council's May 16, 2025 meeting.

Per the County's Charter, the Planning Commission's response should be returned to the Council within 120 days after receipt of the referral, which would be September 19, 2025.

Board of Water Supply Action:

As requested by the Council, the Board of Water Supply (Board) discussed Resolution 25-115

during their meetings held on June 19 and July 17, 2025 (see attached meeting minutes). As noted in the attached July 17, 2025 letter from its Chair, the Board supports the proposed Bill. The Board emphasized the importance of the Council considering additional forms of water conservation beyond pool restrictions as well as improved monitoring of water resources. The Board also noted potential loopholes in the resolution, such as allowing property owners with existing pools to expand them, potentially undermining the intent of the restrictions.

The Board's letter also referenced a July 10, 2025 comment letter from the Department of Water Supply's (DWS) Director, John Stufflebean. Within his comment letter (see attached), Director Stufflebean estimates the amount of water loss due to evaporation from an averaged size pool (15'x30') to be approximately 15.4 gallons/day in Nāpili and 56.1 gallons/day in Lahaina based upon 40 inches and 12 inches of annual rainfall, respectively. He notes that the average household water use is approximately 500 gallons/day. Thus, in Nāpili, the amount of evaporation from 32 uncovered pools would be equivalent to one household's daily water use. Whereas, in Lahaina, the evaporation from 9 uncovered pools would be equivalent to one household's daily water use. Director Stufflebean goes on to indicate that pool covers can reduce the evaporation loss by an estimated 90 percent; meaning that a pool in Lahaina with a cover would lose in evaporation only about 5.6 gallons/day. Finally, the Director noted that DWS recommended requiring pool covers in the past and that upcoming proposed revisions to the water conservation ordinance will include pool cover requirements in addition to other water conservation measures.

Discussion

Proposed Amendment:

As shown in attached Resolution 25-115, the proposed Bill would add a new Chapter 19.98 to the MCC. Importantly, the proposed Bill is only applicable to properties located in the West Maui Community Plan area and has a limited duration. Below, is a summary of the salient sections of the proposed Bill:

- 19.98.010 Findings and purpose. This section provides context for the Bill; namely, that due to a variety of circumstances, there are significant concerns regarding the availability of water to meet housing needs in West Maui, and private swimming pools are an amenity that requires a large quantity of potable water that does not serve these needs.
- 19.98.030 Applicability. The Bill only applies to properties in the West Maui Community Plan area.
- 19.98.040 Restrictions. This section restricts the issuance of permits for any new private swimming pools until one or more of the following conditions are satisfied:
 - o All three phases of the West Maui groundwater availability study are complete (see attached Bill for detailed description of phases).

- o The State commission on water resource management determines that reliable capacity for the West Maui system, including pre-fire system requirements, exceeds demand.
- o The Department of Water Supply develops or acquires additional West Maui water source sufficient to address the rebuild of structures lost in the August 2023 Maui wildfires and the domestic water needs of new residential development for which permits are sought.
- 19.98.050 Exemptions. The proposed Bill provides exemptions for:
 - o Swimming pool applications that were complete or issued before the effective date of the ordinance.
 - o The construction of a swimming pool wherein the property's CC&Rs allowed a swimming pool prior to the effective date of the ordinance.
 - Repairs and maintenance of swimming pools constructed prior to the effective date of the ordinance.
 - o Permitting and construction of a public swimming pool.
- 19.98.060 Duration. The Bill is applicable until one or more of the conditions in section 19.98.040 (see above) are satisfied or December 31, 2028, whichever is sooner.
- 19.98.070 Penalties. The proposed Bill references an enforcement mechanism for violations.

Department Recommendation

As noted in the attached document from the Planning Department's Long Range Division, the General Plan includes many goals, objectives and policies regarding the importance of managing water resources. The proposed Bill is consistent with these including Maui Island Plan Policy 6.3.2.e, "Ensure water conservation through education, incentives, and regulations."

The Department is very supportive of water conservation efforts and the proposed Bill will help in that regard. The proposed Bill is a policy matter that would restrict current individual property rights in favor of a larger water conservation effort, and since there are no significant land use impacts related to the proposed Bill, the Department does not have a particular position in support or against this Bill. The Department believes that there are many water conservation efforts that could be undertaken and that a more robust discussion between the Council and Department of Water Supply would be prudent.

Nevertheless, the following minor modifications are recommended by the Department for the Commission's consideration and recommendation to the Council.

1. Proposed Modifications – Bill Structure

The proposed Bill includes a mandate that restricts the issuance of a permit for a certain specified duration, which is described in two separate code sections. Specifically, proposed Section 19.98.040

indicates that permits cannot be issued until one or more of three different regional water conditions are satisfied, while separate Section 19.98.060, establishes the date of December 31, 2028, whichever is sooner.

For ease, the Department recommends that these two sections be combined. For example, Section 19.98.060 could be deleted, and Section 19.98.040 could be revised as follows (proposed new text shown in <u>underline bold</u>):

"19.98.040 Restrictions. No County employee or agency may issue a permit for the construction of a new private swimming pool in the West Maui community plan area until the sooner of December 31, 2028, or one or more of the following conditions is satisfied:

- A. All three phases of the West Maui groundwater availability study are complete, consisting of
 - 1. Phase 1: Field reconnaissance, securing permits, study design, and developing monitoring well specifications.
 - 2. Phase 2: Well monitoring and needs assessment for additional wells.
 - 3. Phase 3: Drilling additional wells warranted by Phases I and 2 and collecting at least one year of production data for those wells.
- B. The State commission on water resource management determines that reliable capacity for the West Maui system, including pre-fire system requirements, exceeds demand.
- C. The department of water supply develops or acquires additional West Maui water source sufficient to address the rebuild of structures lost in the August 2023 Maui wildfires and the domestic water needs of new residential development for which permits are sought."

2. <u>Proposed Modification – Enforcement</u>

The proposed Bill includes Section 19.98.070 Penalties, which indicates that a violation of the proposed ordinance is subject to enforcement under Chapter 19.530. Further, proposed Section 19.98.040 – Restrictions, indicates "No County employee or agency may issue a permit for the construction of a new private swimming pool in the West Maui community plan area..." Since the County is responsible for issuing permits for swimming pools, which it would not do if this Bill is passed, and the only other violation of this Ordinance would be a property owner constructing a swimming pool without a permit, the Department does not believe Section 19.98.070 is necessary as any property owner constructing a swimming pool without permits would already be in violation and be subject to enforcement through Chapter 19.530. Importantly, even if this Ordinance were placed in a different Title, existing MCC Section 19.530.030 already addresses violations of Titles, 8, 12, 14, 16, 18 and 19. The Department seeks the Commission's concurrence that this section should be removed.

3. Swimming Pool Covers and other Water Conservation Measures

As discussed in the attached letter from the Board of Water Supply, the Board recommends that the Council consider additional forms of water conservation beyond pool restrictions as well as improved monitoring of water resources. Further, Director Stufflebean describes that pool covers can reduce the evaporation loss by an estimated 90 percent. Director Stufflebean noted that DWS recommended requiring pool covers in the past and that upcoming proposed revisions to the water conservation ordinance will include pool cover requirements amongst other water conservation measures. The Department is aware of another jurisdiction in California that has required the use of pool covers as a water conservation method in lieu of banning the construction of new swimming pools. The Department encourages the Planning Commission to provide any further comment it may have pertaining to swimming pool covers and/or other water conservation measures that the Department will forward to the Council for its consideration.

4. Proposed Modification - Location of the Amendment within the MCC

A property owner desiring to install a new swimming pool is required to first submit application for a building permit with the Development Services Administration (DSA) division of the Department of Public Works. That permit will be routed to the Planning Department to ensure that the proposed swimming pool complies with mandated setbacks to property lines. Unless the swimming pool is located within a Special Management Area and/or on a shoreline property, or requesting a Variance to the mandated setback requirement, no additional review is conducted by the Planning Department. More importantly, proposed Section 19.98.040 would set an expiration of the Ordinance upon specific conditions being satisfied, which the Department does not have the expertise to determine. Further, ordinances with a specific expiration date are not typically found within the Zoning Code (Title 19). Given these circumstances, the Department does not believe that the proposed ordinance should be located within Title 19.

The proposed Ordinance could be located in Title 16 – Buildings and Construction, which is administered by DSA within the Department of Public Works. DSA is typically an applicant's first contact for the submittal of a swimming pool permit and thus would have the first opportunity to deny the submittal of a permit application. However, the Director of Public Works preferred that it not be placed in Title 16 because it also does not have the ability to determine if the expiration conditions identified in Section 19.98.040 have been met. The Director of Public Works suggested it be included within Title 19 since it is a land use activity, or within Title 14 - Public Services, which includes a section on water and subsection on water conservation. The Director of Water Supply indicated a preference that the Ordinance not be located in Title 14 as it was felt that Title 14 should not be where land use decisions are made. The Director did indicate that other water conservation methods such as requiring pool covers are planned for Title 14.

While including the proposed Ordinance in Title 19 will not cause significant impacts to property owners, as noted above there are some concerns by the Department, which if placed in Title 19 would

require further coordination with other Departments as well as a future repeal of the Ordinance (with Planning Commission review) once it has expired. If the Commission has any comments on the location of this Ordinance within the MCC, then the Department will forward them to the Council.

Planning Commission Options

The Commission has the following options:

- 1. Recommend approval of the proposed bill to the Maui County Council.
- 2. Recommend approval of the proposed bill with amendments to the Maui County Council, which could include those amendments recommended by the Department.
- 3. Recommend denial of the proposed bill to the Maui County Council.
- 4. Vote to defer action on the proposed bill to gather specific additional information.

Attachments:

- Resolution 25-115
- Council Meeting Transcript Minutes from May 16, 2025 Meeting
- Board of Water Supply Letter to County Council, dated July 17, 2025
- Director Stufflebean Letter to Board of Water Supply, dated July 10, 2025
- Board of Water Supply "Draft" Minutes, dated July 17, 2025
- Board of Water Supply Minutes, dated June 19, 2025
- County of Maui, Planning Department Long Range Division Comments on Reso 25-115

cc: Ana Lillis, Deputy Director (pdf)
John Stufflebean, Director of Water Supply (pdf)
Jordan Molina, Director of Public Works (pdf)
Carolyn Cortez, Acting Planning Program Administrator, ZAED (pdf)
Danny Diaz, Planning Program Administrator, Current Planning (pdf)
Jacky Takakura, Planning Program Administrator, Long Range (pdf)
Gregory Pfost, Administrative Planning Officer (pdf)

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Resolution

No. 25-115

REFERRING TO THE MAUI PLANNING
COMMISSION AND BOARD OF WATER SUPPLY
A PROPOSED BILL TO IMPOSE INTERIM
RESTRICTIONS ON NEW PRIVATE SWIMMING
POOLS IN THE WEST MAUI COMMUNITY PLAN
AREA

WHEREAS, the Council is considering a proposed bill to impose interim restrictions on new private swimming pools in the West Maui Community Plan Area; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and amendments, and provide findings and recommendations to the Council; and

WHEREAS, Charter Section 8-11.3 states: "The board of water supply shall act as advisor to . . . the council in all matters concerning the county's water system"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

- 1. That it refers the proposed bill, entitled "A BILL FOR AN ORDINANCE IMPOSING INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA," attached as Exhibit "1," to the Maui Planning Commission for appropriate action under Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
- 2. That it also refers the proposed bill to the Board of Water Supply for advice under Section 8-11.3 of the Revised Charter of the County of Maui (1983), as amended; and
- 3. That certified copies of this resolution be transmitted to the Mayor, Planning Director, Director of Water Supply, Chair of the Board of Water Supply, and Maui Planning Commission.

Resolution No. 25-115

APPROVED AS TO FORM AND LEGALITY

/s/ Michael J. Hopper

Department of the Corporation Counsel County of Maui

paf:cmn:24-250b

INTRODUCED BY:

Jamara a. M. Paltin TAMARA PALTIN

EXHIBIT "1"

ORDINANCE NO	
BILL NO.	(2025)

A BILL FOR AN ORDINANCE IMPOSING INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA

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

SECTION 1. Title 19, Maui County Code, is amended by adding a new chapter to read as follows:

"Chapter 19.98

INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA

Sections:

19.98.010	Findings and purpose.
19.98.020	Authority.

19.98.030 Applicability.

19.98.040 Restrictions.

19.98.050 Exemptions. 19.98.060 Duration.

19.98.070 Penalties.

19.98.010 Findings and purpose. The council finds that the State commission on water resource management designated the Lahaina aquifer sector area as a Surface and Ground Water Management Area, effective August 6, 2022. The Lahaina aquifer sector area consists of the Honokōhau, Honolua, Honokahua, Kahana, Honokōwai, Wahikuli, Kahoma, Kaua'ula, Launiupoko, Olowalu, and Ukumehame surface water hydrologic units and the Honokōhau, Honolua, Honokōwai, Launiupoko, Olowalu, and Ukumehame groundwater hydrologic units.

In its decision, the commission determined that:

• The surface and ground water resources in the Lahaina aquifer sector area may be threatened by existing or proposed withdrawals or diversions of water;

- Saltwater intrusion harms groundwater quantity and quality;
- Serious historic and ongoing disputes over current and planned uses of water exist;
- Climate uncertainty and potential drought and decline in rainfall and recharge exist; and
- Surface and groundwater interaction and connection should be managed in an integrated manner.

A year later, wildfires destroyed more than 2,200 structures in Lahaina. In the wake of the wildfires, property owners are seeking to rebuild, and the County is seeking to grow its residential workforce-housing inventory.

According to the commission on water resource management, the Lahaina aquifer sector area provides water for everyone in West Maui. The council finds that supplying water to support stable housing for West Maui residents is an urgent priority. The council further finds that a private swimming pool is an amenity that requires a large quantity of potable water but does not serve essential housing needs. In addition, the West Maui community has access to public swimming pools and beaches for recreation and exercise.

Thus, this chapter's purpose is to impose an interim restriction on the permitting and construction of new private swimming pools in the West Maui community plan area.

- 19.98.020 Authority. This chapter is adopted under the authority of the Revised Charter of the County of Maui (1983), as amended, and chapters 46 and 205, Hawai'i Revised Statutes.
- 19.98.030 Applicability. This chapter applies to all properties within the West Maui community plan area.
- 19.98.040 Restrictions. No County employee or agency may issue a permit for the construction of a new private swimming pool in the West Maui community plan area until one or more of the following conditions is satisfied:
- A. All three phases of the West Maui groundwater availability study are complete, consisting of:
 - 1. Phase 1: Field reconnaissance, securing permits, study design, and developing monitoring well specifications.
 - 2. Phase 2: Well monitoring and needs assessment for additional wells.
 - 3. Phase 3: Drilling additional wells warranted by Phases 1 and 2 and collecting at least one year of production data for those wells.

- B. The State commission on water resource management determines that reliable capacity for the West Maui system, including pre-fire system requirements, exceeds demand.
- C. The department of water supply develops or acquires additional West Maui water source sufficient to address the rebuild of structures lost in the August 2023 Maui wildfires and the domestic water needs of new residential development for which permits are sought.

19.98.050 Exemptions. This chapter does not prevent:

- A. The processing, approval, or granting of any permit for the construction of a private swimming pool in the West Maui community plan area that was complete and properly filed with the applicable agency before the effective date of this chapter.
- B. The construction of a private swimming pool in the West Maui community plan area for which required permits were obtained before the effective date of this chapter.
- C. The permitting and construction of a private swimming pool when a property's covenants, conditions, and restrictions, if any, explicitly allowed the swimming pool before the effective date of this chapter.
- D. Repairs to and maintenance of a private swimming pool constructed before the effective date of this chapter.
- E. The permitting and construction of a public swimming pool.
- **19.98.060 Duration.** This chapter's provisions apply until one or more of the conditions in section 19.98.040 are satisfied or December 31, 2028, whichever is sooner.
- 19.98.070 Penalties. A. A violation of a provision of this chapter is subject to enforcement under chapter 19.530.
- B. In addition, the corporation counsel is authorized to take legal action in a court of competent jurisdiction to restrain and enjoin an entity who violates any chapter provision.
- C. This section's remedies are cumulative and not exclusive."

SECTION 2. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel County of Maui

paf:cmn:24-250a

INTRODUCED BY:

Jamara A. M. Paltin TAMARA PALTIN

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 25-115 was adopted by the Council of the County of Maui, State of Hawaii, on the 16th day of May, 2025, by the following vote:

MEMBERS	Alice L. LEE Chair	Yuki Lei K. SUGIMURA Vice-Chair	Tom COOK	Natalie A. KAMA	Gabriel L. JOHNSON	Tamara A. M. PALTIN	Keani N. W. RAWLINS- FERNANDEZ	Shane M. SINENCI	Nohelani U'U-HODGINS
ROLL CALL	Aye	No	No	Excused	Excused	Aye	Aye	Aye	Aye

COUNTY CLERK

Council Transcript Minutes - May 16, 2025 - Resolution 25-115 Discussion Hi-lighted

Judiciary until such time as the appropriate entity of government comes along to accept that road.\r\n\r\nYou know, it's all fine and dandy to pretend we're a state, pretend we're legit and pretend we're a County, but if we're not going to accept the responsibilities that come with that Kuleana, which is accepting these roads, then we should stop pretending. There is no HOA for Hui f in my discussions with the community there, they would not vote to support a CFD. There are a part of Napili bay civic improvement District, which up until recently did allow short-term rentals as a permitted use. So they pay exorbitant amounts of Tat and they have -- they pay exorbitant taxes and just trying to save our own emergency vehicles and make the place safer. Thank you to Mr. Ueoka for the support. >> Vice-Chair.\r\n\r\n>> I have heard about this for years and wonder what Corp. Counsel has to say about this. >> Ms. Desjardins. >> Thank you, Chair. Our office has been involved in a long term base on the discussion around Hui f road. And if you folks were to pass this Resolution and it was something that the Mayor's Office intended to take up, we would work with the Administration to try to come to some Resolution I have the same basis understanding that the Judiciary is holding title to hui f road until such time as it is dedicated.\r\n\r\nAnd the only other thing I know is what Mr. Ueoka knows that it's in poor condition. Thank you. >> Member Cook. >> Thank you, Chair. I'm very supportive of this and I hope the Administration will accept it and embrace it and take the responsibility for it. There is other roads that are in limbo and government roads that are not owned by the Judiciary and they are not owned by anybody, but both the State and County will say you can't go on them, but nobody owns them.\r\n\r\nI'm supportive of this and I hope we can collectively working with the Administration to get this addressed. All those in favor of the motion raise your hand, say aye. Six ayes, zero nos, three excused. Rawlins-Fernandez, Johnson and Kama. >> Seven ayes. >> Thank you, members. >> I'm sorry.\r\n\r\nI didn't see Member Rawlins-Fernandez. Seven ayes, two excused. Johnson and Kama. Thank you. Next. >> Chair, before you is resolution 25-115, referring to the Maui Planning Commission and Board of Water sup Bly proposed Bill to impose interim restrictions on new private swimming pools in the West Maui Community Plan Area. >> You are not muted Member Rawlins-Fernandez.\r\n\r\n>> Member Paltin. >> Thank you. I move to adopt resolution 25-115. >> Second. >> Moved by Member Paltin, seconded by Member Sinenci to adopt resolution 25-115. Discussion, Member Paltin. >> Thank you, Chair. This is basically an interim measure. All the times that we have visited -- not visited, but gone to Commission on Water Resource Management meetings in our area, they are working to prioritize water uses in the last meeting we had heard that they are trying to do it by tiers, possibly putting public trust uses first.\r\n\r\nAnd the County of Maui should do the same, because especially for the Lahaina area aquifer sector area. You know, we have heard repeatedly that the County can't designate water to 100% affordable housing projects whether it's Sylvia Luke's project, pu Lahui and yet we have water for new private swimming pools. I did want it say, too, that Director Stufflebean's calculations for Napili are not the same as the calculations for Lahaina. They don't take into effect splash out leaks and backwashing and the average annual rainfall for Lahaina for the past few years has been 13.54" with 13.54" and annual evaporation rate of 80", for a standard 15x30' pool is over 50 gallons a day in just evaporation. That being said, that is ten pools equaling to the usage of one single-family home. And so with the situation we're facing in West Maui, where there's not explanation why there's such high chlorides in the pumped well water we're partnering with U.S.G.S. to install a deep monitoring well inland poco and right now we're getting a handle on our water use

and needs and I think it's right to impose interim restrictions. There's a number of exemptions to this, repair and maintenance of pools is exempt.\r\n\r\nIf pools are a part of your CC&Rs it's exempt. It's scheduled to end December 31st, 2028. Hoping that CWRM will have their work done by that time, and we'll be in an area -- in place where we know more. So that's the proposal. >> Any more discussion? Member Cook. >> Thank you, Chair. I won't be supporting this.\r\n\r\nSimply because -- I don't agree with the interpretation of the impact. I understand the challenges of West Maui and I'm supportive of conservation developing source, et cetera. But my math and calculations and experience with swimming pools don't add up to much volume and there's a lot of people -- personally I wouldn't want to see everybody going to the beach and jumping in the ocean of it's a nice idea, but we don't need the coastline that crowded, and people, different people and different reasons. So I'm not supportive. Thank you. >> Anybody else? No more discussion.\r\n\r\nI'm kind of conflicted on this myself. I believe in conservation. Is this restricted to West Maui? >> Yes, and it's a vote to refer it to the Planning Commission and Board of Water supply. >> Okay. Roll call. >> Council Member Pro Tempore Tasha Kama.\r\n\r\n>> Excused. >> Vice-Chair Yuki Lei Sugimura? >> No. >> Council Member Tamara Paltin? >> Yes. >> Council Member Gabe Johnson? >> Excused.\r\n\r\n>> Council Member Keani Rawlins-Fernandez? >> Aye. >> Council Member Tom Cook? >> No. >> Council Member Nohelani Uu-Hodgins? >> Aye. >> Council Member Shane Sinenci?\r\n\r\n>> Aye. >> And Chair Lee? >> Aye. >> Chair, you have five ayes, two nos, two excused. >> Thank you, Members. >> Motion carries. >> Next.\r\n\r\n>> Chair, for referral to the Government Relations, Ethics, and Transparency Committee resolution 25-116 authorizing settlement of Fire Fire and casualty insurance of Hawai'i, Inc. v. County of Maui, et al. Civil File 2 CCV-24-000105. >> Any objections to referring this to the great Committee. >> So ordered Ms. Clerk. >> Resolution 25-118 authorizing the acquisition of two acres of property identified as Tax Map Key 2-3-8-064:018 Kahului, Maui, Hawai'i for an amount not-to-exceed \$7.2 million. >> Member Cook.\r\n\r\n>> Is it not Member Cook? >> It is, Vice-Chair? >> Thank you. >> Vice-Chair Sugimura. >> If there's no objections, may I request this Resolution be postponed until Bill 61 and 62 (2025) are called up. >> Any objections. >> No objections.\r\n\r\n>> So ordered. Ms. Clerk. >> Chair, for referral to the Kamiki 'aina Committee is resolution 25-118 organizing the Hawai'i Tourism Authority be held accountable to ensure a safe and welcoming work environment for Kanaka 'Oiwi and women. >> Any objections to referring this matter? >> No. >> >> Member Rawlins-Fernandez, are you okay with referring this?\r\n\r\n>> Mahalo, Chair. Yes. Requesting to have it referred to Ka'a Committee. >> Thank you. >> This will be referred. Since there's no objections >> We're in Ordinances there's no one currently sign up to testify on Ordinances. So this will be last call, if there's anyone who would like to testify in Ordinances, this is your opportunity countdown, Chair, there's no one indicating a desire to testify.\r\n\r\n>> Members, any objections to closing testimony. >> No objections, but did we vote on 25-118? >> Oh, she asked -- she was okay for it to be referred is to her Committee. >> Vice-Chair Sugimura asked that it be taken up when we take up Bill 61 and 62 table it for now. >> Yes. >> Okay. >> Oh, I thought you were asking about reso 25-119. Okay. Can you repeat what you just said?\r\n\r\nI was in the mill of saying any objections to closing public testimony on Ordinances? >> No objections . and accepting written testimony. >> No objections. >> So ordered. Ms. Clerk. >> Chair?\r\n\r\n>> Chair. >> Member Rawlins-Fernandez. >> Mahalo, Chair. We have Sunshine Law I'm in my vehicle alone. Thank you. >> Chair, for referral to the

RICHARD T. BISSEN, JR. Mayor

JOSIAH K. NISHITA Managing Director

JOHN STUFFLEBEAN, P.E. Director

JAMES A. LANDGRAF Deputy Director



DEPARTMENT OF WATER SUPPLY COUNTY OF MAUI 200 SOUTH HIGH STREET WAILUKU, MAUI, HAWAI: 1 96793

http://www.mauicounty.gov/water

July 17, 2025

Honorable Alice L. Lee, Council Chair Honorable Tamara Paltin, Councilmember And Members of the Maui County Council County of Maui 200 South High Street Wailuku, Hawaii 96793

Dear Chair Lee, Member Paltin and Councilmembers,

SUBJECT:

RESOLUTION 25-115, "REFERRING TO THE MAUI PLANNING COMMISSION AND BOARD OF WATER SUPPLY A PROPOSED BILL TO IMPOSE INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA" (PAF 24-250)

At its meetings on June 19 and July 17, 2025, the Board of Water Supply discussed and voted to support the proposed bill in Resolution 25-115, which would impose interim restrictions on new private swimming pools in the West Maui Community Plan Area.

The Board views this resolution as a useful step to help manage limited water resources while the County works to assess the broader needs of the West Maui community and restore services to those still recovering. However, Board members also emphasized the importance of the Council considering additional forms of water conservation beyond pool restrictions as well as improved monitoring of water resources.

Questions were raised about the County's authority to regulate water usage, particularly when the issue, such as permitting pools, appears to fall under the Planning Department. This raises concerns about how effective the Department of Water Supply can be in managing water resources if it lacks direct control over how water is allocated or used.

Board members also noted potential loopholes in the resolution, such as allowing property owners with existing pools to expand them, potentially undermining the intent of the restrictions. While the resolution is limited in scope, it represents a positive step forward in the County's

"By Water All Things Find Life"

broader effort to better monitor and manage water use. The Board encourages the Council to continue identifying and implementing additional, comprehensive solutions to support long-term water conservation. Also for the Council's consideration is Director John Stufflebean's comments in the attached letter.

Thank you for the opportunity to provide our comments on this important issue. We appreciate your support and look forward to working together to further strengthen and protect our community.

Sincerely,

Donna D. Sterling, Chair Board of Water Supply

County of Maui

cc:

Mayor Richard T. Bissen, Jr. County of Maui John Stufflebean, Director, Department of Water Supply James Landgraf, Deputy Director, Department of Water Supply Yukari Murakami, Deputy Corporation Counsel

Attachment

RICHARD T. BISSEN, JR. Mayor

JOSIAH K. NISHITA Managing Director

JOHN STUFFLEBEAN, P.E.

JAMES A. LANDGRAF Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAI'I 96793
http://www.mauicounty.gov/water

July 10, 2025

Ms. Donna Sterling, Chair and Members of the Board of Water Supply County of Maui 200 South High Street, 5th Floor Wailuku, Hawaii 96793

SUBJECT: RESOLUTION 25-115, "REFERRING TO THE MAUI PLANNING COMMISSION AND BOARD OF WATER SUPPLY A PROPOSED BILL TO IMPOSE INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA"

Dear Chair and Members,

In response to your request for an analysis of water use in private swimming pools, I stated in a letter to the Council:

"The annual use of water by a pool is the evaporation minus the rainfall times the surface area of the pool. In Napili, with annual rainfall of 40 inches and evaporation of 80 inches, for an average pool (15 feet by 30 feet) this would be 750 cubic feet which equates to 5,610 gallons per year or 15.4 gallons per day (compared to the average household use of 500 gallons per day). A larger pool in an area with a different rainfall to evaporation ration would be different."

A pool in Lahaina where the rainfall is 12 inches and the evaporation is 85 inches would use 2,737 cubic feet or 20,476 gallons per year of 56.1 gallons per day.

Pool covers reduce loss by an estimated 90%, so with a provision that requires pool covers, a pool in Lahaina with a cover that is used properly would use about 5.6 gallons per day.

Ms. Donna Sterling, Chair and Members of the Board of Water Supply July 10, 2025 Page 2

In summary, compared to average use by a household, for Napili, it would be about 32 uncovered pools, in Lahaina, about 9 uncovered pools, and in Lahaina, about 90 pools with covers. I am told the DWS recommended requiring pool covers in the past. The proposed revisions to the water conservation ordinance includes pool cover requirements.

Sincerely,

OHN STUFFLEBEAN, P.E.

Director

BOARD OF WATER SUPPLY

200 South High Street, Wailuku, HI 96793 Website: https://www.mauicounty.gov/173/Board-of-Water-Supply

MINUTES JULY 17, 2025

The regular meeting of the Board of Water Supply was held at the Department of Water Supply Conference Room and online via Webex interactive conference technology. Video recordings of previous meetings are viewable on the board's website above, and at https://www.akaku.org/boards-commissions/.

I. CALL TO ORDER

The meeting was called to order by Chair Donna Sterling at 1:31 p.m.

II. ROLL CALL

Present:

Chair Donna Sterling, Vice Chair Edwin "Ekolu" Lindsey (2:02 p.m.), Juanita Reyher-Colon, John Helly, Nichole Inouye-Nohara, Jake Musson, Paele Kiakona (Noelle), Jeffrey Borge (1:37 p.m.)

Staff:

John Stufflebean, Director; Yukari Murakami, Deputy Corporation Counsel; Sherilyn Otsubo, Board Secretary

III. APPROVAL OF MINUTES

Member Reyher-Colon made a motion to approve the minutes of June 19, 2025. Member Helly seconded the motion. The motion passed with 6 ayes.

IV. PUBLIC TESTIMONY ON ANY AGENDA ITEM

There were no testifiers and public testimony was closed at 1:36 p.m.

V. UNFINISHED BUSINESS

A. Monthly updates from the East Maui Regional Community Board.

Chair Jonathan Scheuer reported that at their last meeting, had a presentation and discussion with the Department of 'Ōiwi Resources on how they can better collaborate between the two new departments. The announcement about Alexander and Baldwin selling their remaining interests to East Maui Irrigation to Mahi Pono came out in the news the day after they had to post their agenda, so it was briefly mentioned in their director's report, but it was not really a subject on their agenda. They will discuss it as a body at an upcoming meeting.

Member Borge joined at 1:37 p.m.

There were no testifiers and testimony was closed at 1:37 p.m.

Member Helly asked what the status is of reporting to CWRM in July.

Chair Scheuer replied that there were two matters on which the East Maui Water Authority and the Aha Wai O Maui Hikina was going to report to the Board of Land and Natural Resources in July. It was both on the status of discussions between Mahi Pono and the County that were going to occur as the result of issuing another revocable permit rather than taking up a long-term lease, as well as the monthly discussions formerly posted quarterly by Mahi Pono, but now posted monthly by the County, and particularly by Director Young, that are updates around the revocable permit. Director Young has reached out Dawn Chang who asked for a written report rather than presentation to the board.

Member Helly said the issue that was lurking in all this is a contested case hearing forced by CWRM. Is that still an active consideration?

Chair Scheuer responded that yes, they're going to have to take up the issue of some kind of disposition of waters emanating from state control plans in East Maui before the end of the year, whether they will do so again, with six days notice, as the proposal to issue a long term lease, or whether they will, learning from last year's two failed attempts, instead go to improving the revocable permit process and working with Maui County on their still outstanding requests to step into those estate shoes on those matters, remains to be seen.

B. Discussion of a draft letter regarding Resolution 25-115, "REFERRING TO THE MAUI PLANNING COMMISSION AND BOARD OF WATER SUPPLY A PROPOSED BILL TO IMPOSE INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA".

Kay Anderson asked about large community pools within the AOAO. Usually, they're about 75 feet long. Are they allowed or is this just for the single-family homes with the private pool?

Member Helly said the ordinance was written by Tamara Paltin, so she would be the authority on what she meant, but his interpretation is that it would encompass any private pool, which include AOAOs.

Ms. Anderson said the language is a little broad because in an AOAO it's covered by the state, they come in and do inspections and it might be misinterpreted by the AOAOs.

Member Helly said he doesn't think that's something the board can influence, but she can take that up with the author of the ordinance.

Testimony was closed at 1:46 p.m.

Member Helly said he would like to have the edits that he proposed considered, and after having read Director Stufflebean's letter, he would also like to reference it directly or include

parts of it in the letter. He thinks it's important that they recognize the quantitative aspects of whether this is a significant action or not.

Member Kiakona reminded the board that due to a potential conflict of interest being that his employer gave testimony on this particular matter, he will be recusing himself from discussions and voting.

Member Reyher-Colon made a motion to adopt the letter as revised by Member Helly with the potential inclusion of Director Stufflebean's comments.

Member Helly seconded the motion.

Member Reyher-Colon made a friendly amendment to modify the revised letter by referencing Director Stufflebean's letter and to add it as an exhibit.

Member Helly seconded the friendly amendment.

The motion passed with 6 ayes. Member Kiakona recused himself.

VI. OTHER BUSINESS

A. Discussion with Director Kate Blystone on how the Planning Department incorporates water availability into the permitting process.

Director Blystone used Member Helly's questions as a way of walking through her presentation of their department's organizational chart. This is the first question that Member Helly had, and it's a good introduction to what the Planning Department is, and what they do. They have five divisions within the Planning Department. The first is the Administration Division consisting of the Director, the Deputy Director, and all of HR. This is who oversees the entire department. The Current Planning Division consists of the Clerical Section that helps keep them on track. They also have secretaries of Boards and Commissions. There're seven boards and commissions that they're responsible for, and they have an excellent team that keeps those guys on track.

The bulk of the work is done within the Land Use Planning Section and in the Environmental Planning Section. The Land Use Section administers the State and County land use permit application processes and their project master planning processes. They do zone amendments, community plan amendments, state land use district boundary amendments, and other related permits that go along with those. They prepare updates to the design guidelines, and processes applications for historic district permits. They also are responsible for presenting to the Planning Commissions, advisory boards, and some other some other duties as well. In the Environmental Planning Section, they do all the different special management area permits, major, minor, emergency, and they're responsible for administering the coastal zone management program, among other things.

In the Zoning Administration and Enforcement Division they have an enforcement section and their responsibility is responding to public complaints for land use violations relating to the SMA and zoning. The Planning Section is responsible for administering state and county land use laws or rules, regulations, and the general and community plans. They're the primary departmental advisory information branch. They also do variances and appeal applications to

BOARD OF WATER SUPPLY

200 South High Street, Wailuku, HI 96793 Website: https://www.mauicounty.gov/173/Board-of-Water-Supply

MINUTES JUNE 19, 2025

The regular meeting of the Board of Water Supply was held at the Department of Water Supply Conference Room and online via Webex interactive conference technology. Video recordings of previous meetings are viewable on the board's website above, and at https://www.akaku.org/boards-commissions/.

I. CALL TO ORDER

The meeting was called to order by Vice Chair Ekolu Lindsey at 1:30 p.m.

II. ROLL CALL

Present: Vice Chair Edwin "Ekolu" Lindsey, Juanita Reyher-Colon, John Helly, Nichole

Inouye-Nohara, Jake Musson, Paele Kiakona, Jeffrey Borge (2:32 p.m.)

Excused: Chair Donna Sterling

Staff: John Stufflebean, Director; Yukari Murakami, Deputy Corporation Counsel;

Sherilyn Otsubo, Board Secretary

III. APPROVAL OF MINUTES - May 15, 2025 and June 6, 2025

Member Reyher-Colon made a motion to approve the minutes of May 15, 2025. Member Helly seconded the motion. The motion passed with 6 ayes. Chair Sterling and Member Borge were excused.

Member Helly made a motion to approve the minutes of June 6, 2025. Member Kiakona seconded the motion. Member Reyher-Colon abstained because she was not present at that meeting. The motion passed with 5 ayes. Chair Sterling and Member Borge were excused.

IV. PUBLIC TESTIMONY ON ANY AGENDA ITEM

Dick Mayer testified on the letter from Kali Watson. He recommended that the board recommend to the Department to contact DHHL and ask them to provide the memorandum of agreement that's being proposed for the project at least by September 1. That will give the BWS a chance to thoroughly review it at its September meeting and make comments on the agreement. It's a very important agreement and it'll set a number of precedents.

on property. Are you getting support for Upcountry from the County Council on solving this problem, especially in a time where housing is so essential and so crucial.

Director Stufflebean replied that they're getting very strong support from the council. They want the department to start issuing meters. In terms of timing, the Kamole Weir upgrades will happen within six to seven months, and that will enable them to start the process of going through the meter list.

By the time they're through with that, they're we're thinking that other supplies would be online. The first ones would be the wells that are already existing that they can simply buy or lease. Then the only time constraint is getting the approval and connecting that building infrastructure which will connect it to our system. The last ones would be the wells that they drill themselves, which will take longer. That will all be part of their communication outreach to the community.

Member Musson asked why he thinks the way it's being done, according to the County Code, is so inefficient? Is there a more technical answer as to why going by priority number is kind of making the process even slower?

Director Stufflebean said it's inefficient for a couple of reasons. One is that you have one request in one part of the system, another request in a totally different part of the system, and they're bouncing all over the place. Another reason is when you go to one request and tell them what it's going to take to connect to the system, the way it has been is they would have to then cover the entire cost of that connection to the system. Whereas, if there were ten people in the same area that needed a connection, they could share the cost.

B. Discussion of Resolution 25-115, "REFERRING TO THE MAUI PLANNING COMMISSION AND BOARD OF WATER SUPPLY A PROPOSED BILL TO IMPOSE INTERIM RESTRICTIONS ON NEW PRIVATE SWIMMING POOLS IN THE WEST MAUI COMMUNITY PLAN AREA".

Director Stufflebean commented that there's been a lot of information about use of water and pools that have been incorrect in the public domain. One of his objectives was to get real numbers as to how much water pools use so that they're making a decision based on good data. Secondly, they are proposing a water conservation ordinance, as previously discussed, which recommends to the council that all new pools have a pool cover, which dramatically reduces evaporation and is very effective.

Kai Nishiki testified that she's glad Director Stufflebean mentioned the conservation enforcement measures. She hopes that this body will ask him when those will be transmitted to the council so that they can get to work on those immediately. That is how they are going to get water for affordable housing. This measure is a good step. Recent testimony at CWRM revealed overwhelming public support for the county to assume control of West Maui's water resources since only 23% are under county control. Even changing who manages the water won't solve the problem unless we change how and for whom it is managed, whether water is distributed by a private utility or the county, the outcome remains largely the same unless we realign our priorities.

West Maui's water must serve West Maui's people, prioritized for the greatest need, which is permanently affordable housing, but there's additional policy changes amending the plumbing code to allow R1 for toilet flushing, updating the county water standards, and establishing a

hierarchy of water use priorities to be enforced during crises. This body could take up and recommend those policy changes to the county, and that would be greatly advantageous as well.

There were no other testifiers and testimony was closed at 2:20 p.m.

Member Kiakona stated that he wanted to be transparent on the agenda item relating to swimming pools, Resolution 25-115. From the time that the resolution was introduced, he held a pretty firm stance, one that does align with Lahaina Strong, and because he is employed by Lahaina Strong and Lahaina Strong has submitted testimony in support of the resolution, he will be recusing himself from the deliberations and voting to avoid any potential conflicts of interests and to maintain the integrity of this work.

Member Reyher-Colon asked how previously permitted pools that were destroyed in the fire be dealt with in this resolution, if any.

Deputy Corporation Counsel Murakami will need to look into this.

Member Helly asked Deputy Corporation Counsel Murakami what authority the county has to direct how water is used once it flows out of a meter? Does the County have the ability to selectively determine how water is used once it's coming out of a permitted meter? Also, if it is legal, what enforcement mechanism would the Department be able to employ to punish violators?

Director Stufflebean responded that the only issues that would come up for the Department would be if they were violating the conservation and shortage rules. Currently, enforcement of that is challenging because of how the code is written, so part of their revisions and updated improvements to the conservation ordinance is in the final stages of being reviewed by Corporation Counsel.

One thing the improved ordinance does is it gives the Department additional enforcement, not only capability, but it makes it a lot easier for them to do enforcement. Currently the process is quite burdensome. They included enforcement positions in the current budget that would help them carry out the enforcement, and the penalty is fines, and in some cases, shutting down the water meter.

Member Reyher-Colon is in support of this resolution, but she would also like to see the Council take into consideration, other forms of conservation measures that the Department can't necessarily put into place but the Council can, as it is dealing with the larger area of population that is not being served by the department to help alleviate the water consumption issue usage in West Maui. Her stance won't change whether or not her previous question is answered, and this is the right step to do, in the interim.

Member Borge joined the meeting at 2:32 p.m.

Member Musson asked Member Helly how his questions relate to this resolution?

Member Helly responded that he's trying to understand how the county has the authority to direct how water is used regardless of whether there's a pool or not. And the issue of a pool

seems to be an issue with the Planning Department. He's not sure how the water department can be effective in controlling that process if they don't have the authority to direct how water is being used. It seems that that's the only mechanism that could be applied by the Department, and if they don't have the legal authority to do that, it's kind of moot. The implication of the way the resolution is written is that somehow there's a responsibility on the Department to implement a part of the code, which they may not have the ability to do.

Deputy Corporation Counsel had to read through the proposal, and Exemption 19.98.050 does say that the processing approval or granting of any permit for the construction or private swimming pool, etc., that was completed and properly filed with the applicable agency before the effective date of this chapter is exempted from this ordinance. This ordinance is dealing with building permits, and not water meters. The exemption does say that if the permit for building a private pool was approved prior to this, then it's not part of this ordinance, it's going forward with new permits being submitted that will be restricted.

Member Inouye-Nohara asked if a property had a pool prior to the fire, can they build a pool again?

Deputy Corporation Counsel said yes, if they had a pre-existing permit already completed and filed, they are exempted.

Member Borge is in support of the county's decision to put a stop to any new permits for swimming pools in West Maui.

Member Reyher-Colon made a comment that she can't help but feel that someone is going to find a loophole somewhere and it'll defeat the purpose of what the council is trying to do.

Member Helly said that if the Board can't really do anything substantive, we could at least suggest a more ambitious approach to this type of conservation including the curtailment of full building, and he would offer a perspective that is reflected in a letter he wrote to CWRM where he suggested a much more ambitious approach to monitoring and managing the water resources in West Maui.

Vice Chair Lindsey stated that action is important at this point in time moving forward, and we have action on the table. He agrees that we need more teeth, but perhaps by putting more teeth, it will delay action. He recommended that we support this resolution moving forward.

Member Reyher-Colon agrees with both Vice Chair's and Member Helly's comment about needing more teeth, but she does see that this is at least one step in the right direction and the Council can tackle the next five steps in whatever manner that they see fit. She believes that because it's probably just going to be a letter of support of the resolution that we should just have Corporation Counsel or the board secretary draft the letter on the board's behalf.

Vice Chair Lindsey entertained a motion to support the resolution as written.

Member Reyher-Colon made the motion and Member Inouye-Nohara seconded. The motion passed with 6 ayes, one excused, Chair Sterling, and one recusal, Member Kiakona.

County of Maui, Planning Department - Long Range Division

Comments on Resolution 25-115 referring to the MPC and BWS a proposed bill to impose interim restrictions on new private swimming pools in the West Maui community plan area

The Countywide Policy Plan (CWPP), Maui Island Plan (MIP), and West Maui Community Plan (WMCP) recognize that land use decision-making and water use are closely tied, and that management of freshwater resources must prioritize the quality of life of Maui County's residents. The CWPP has policies that seek to ensure communities on Maui remain sustainable and that there is adequate infrastructure and water to meet existing community needs. The MIP explicitly mentions the need to prioritize infrastructure for affordable housing and ensure a sufficient supply of affordable housing. In addition, there are policies that call for improved management of water resources and ensuring that the Public Trust Doctrine is followed.

Countywide Policy Plan

o CWPP | I. Improve Physical Infrastructure

Goal: Maui County's physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

Objective 1: Improve water systems to assure access to sustainable, clean, reliable, and affordable sources of water.

Policies:

a. Ensure that adequate supplies of water are available prior to approval of subdivision or construction documents.

Objective 3: Direct growth in a way that makes efficient use of existing infrastructure and to areas where there is available infrastructure capacity.

Policy:

- a. Capitalize on existing infrastructure capacity as a priority over infrastructure expansion.
- o CWPP J. Promote Sustainable Land Use and Growth Management

Goal: Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

Objective 4: Improve and increase efficiency in land use planning and management.

Policies:

- a. Assess the cumulative impact of developments on natural ecosystems, natural resources, wildlife habitat, and surrounding uses.
- b. Ensure that new development projects requiring discretionary permits demonstrate a community need, show consistency with the General Plan, and provide an analysis of impacts.

Maui Island Plan

- MIP | Goal 6.3 Maui will have an environmentally sustainable, reliable, safe, and efficient water system.
 - **Objective 6.3.1** More comprehensive approach to water resources planning to effectively protect, recharge, and manage water resources including watersheds, groundwater, streams, and aquifers.
- MIP | Goal 6.3 Maui will have an environmentally sustainable, reliable, safe, and efficient water system.
 - Objective 6.3.2 Increase the efficiency and capacity of the water systems in striving to meet the needs and balance the island's water needs.

Policies:

- **6.3.2.d** Work with appropriate State and County agencies to achieve a balance in resolving the needs of water users in keeping with the water allocation priorities of the MIP.
- **6.3.2.e** Ensure water conservation through education, incentives, and regulations.

West Maui Community Plan

The West Maui Community Plan does not prohibit pools, but provides the following policy regarding maintenance:

2.3.6 | Require new development and encourage existing developments with pools within the Special Management Area to use Best Management Practices for cleaning and maintaining pools, specifically prohibiting draining of pool water directly to the ocean or storm drain and encouraging utilizing pool water for irrigation on site. New pools within the Special Management Area must show how the pool water will be drained prior to obtaining a permit or exemption.