

# Agriculture and Public Trust Committee on 2021-07-20 1:30 PM

Meeting Time: 07-20-21 13:30

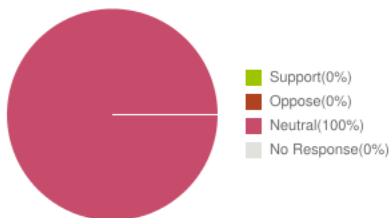
## eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Agriculture and Public Trust Committee on 2021-07-20 1:30 PM	07-20-21 13:30	4	1	0	0	1

### Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

#### Overall Sentiment



# Agriculture and Public Trust Committee on 2021-07-20 1:30 PM

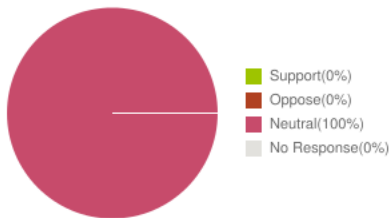
07-20-21 13:30

Agenda Name	Comments	Support	Oppose	Neutral
APT-57 CC 19-162 WATER USE AND DEVELOPMENT PLAN FOR MAUI (APT-57)	1	0	0	1

## Sentiments for All Agenda Items

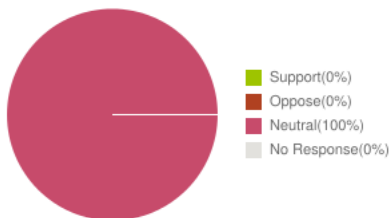
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### Overall Sentiment



### Agenda Item: eComments for APT-57 CC 19-162 WATER USE AND DEVELOPMENT PLAN FOR MAUI (APT-57)

### Overall Sentiment



## Shay Chan Hodges

Location:

Submitted At: 1:29pm 07-19-21

Aloha APT Committee Members:

I'm writing to present my recommendations for adding the potential County Wailuku Water Company purchase to Table 14-41 on page 122 under: Summary of Recommended Strategies Wailuku ASEA.

As you probably know, in 2020, when I was Chair of the Maui County Board of Water Supply, members received a number of presentations about the WWC purchase from representatives of WWC, the County, and community members, and issued recommendations in February 2021.

Given that the Wailuku Water Company is for sale, it would make sense to include those findings in Table 14-4 — or at least a brief summary indicating that a sale is anticipated.

I have attached a document that shows Table 14-4 with the BWS findings included. All items in red are a

rephrasing of the recommendations, with the exception of #3, which is in response to the following statement toward the top of page 2 in the BWS Executive Summary:

"There is no confirmed role for community members, kalo farmers, and others affected by the system, and in particular Hui O Na Wai Eha, which represents over 60 in-stream and off-stream users, in the current negotiations or future operation of the system."

I am also attaching the BWS EXECUTIVE SUMMARY: Discussions, Presentations, Finding & Recommendations May 2020 to January 2021 (Recommendations unanimously approved on February 18, 2021.)

Mahalo for your consideration.

—Shay Chan Hodges

	Strategy	Planning Objectives	Estimated Cost	Agency	Time Frame
<b>Resource Management</b>					
2	Establish a diverse working group to address alternative structures for future management of the watershed lands and sustained operations of the WWC ditch system	Maintain sustainable resources Protect water resources Protect and restore streams	N/A	Aha Moku Hui O Nā Wai `Ehā OHA Maui County <i>Wailuku Water Company -- change to Owners of Wailuku Water Company, which is currently for sale?</i>	1
3	<i>If the County intends to purchase the Wailuku Water Company (WWC), ensure that community members, kalo farmers, and others affected by the system, including in-stream and off-stream users, are actively engaged in plans for operations and stewardship of the system with regard to any future operation of the system*</i>	<i>Ensure that systems are monitored and diverters are complying with laws to ensure that instream users have access to water on a regular basis*</i>	N/A	Aha Moku Hui O Nā Wai `Ehā OHA Maui County?	2
4	<i>If the County intends to purchase the Wailuku Water Company (WWC), complete an MAI appraisal and engineering study of the delivery system that provides estimates of the cost of repair and maintenance of the system*</i>	<i>Determine future cost to ratepayers of purchasing the system*</i>	<i>\$500,000?  (\$250K for hydrologist?)</i>	<i>RFP for Outside Consultant</i>	<i>1</i>
5	<i>If the County intends to purchase the Wailuku Water Company (WWC), develop a revenue model or user fees that take into consideration community needs and desires for the system (as determined through a community engagement process*</i>	<i>Ensure that there are funds available to pay for the costs of repair and maintenance of the system so that resident ratepayers do not absorb unnecessary increases*</i>	<i>\$250,000?</i>	<i>RFP for Outside Consultant</i>	<i>1</i>
<b>CONVENTIONAL WATER SOURCE STRATEGIES</b>					

\*As described in the Maui County Board of Water Supply Wailuku Water Company (WWC) Purchase EXECUTIVE SUMMARY: Discussions, Presentations, Finding & Recommendations May 2020 to January 2021 (Recommendations unanimously approved on February 18, 2021).

**Maui County Board of Water Supply Wailuku Water Company (WWC) Purchase  
EXECUTIVE SUMMARY: Discussions, Presentations, Finding & Recommendations  
May 2020 to January 2021**

From May 2020 to January 2021, the Board of Water Supply (BWS) received presentations and community testimonies about the County's proposed Wailuku Water Company purchase. Members learned a great deal about the system, its history, the surrounding areas, and the steps that have been taken so far toward a purchase. Based on this information, the Board has put together a summary of the information received as well as the discussions of the various issues and concerns raised by Board members and community members surrounding this process. This information is intended to aid the County Administration, the County Council, and the Department of Water Supply in making an informed decision about the County's engagement with the Wailuku Water System. This Executive Summary includes key findings and concerns, followed by recommendations approved the Board.

**Benefits and Advantages of County Purchasing the Wailuku water Company**

- County control rather than a private entity provides accountability
- Potential for Community-Stewardship Models
- Ability to take steps to ensure steady supply of water if properly managed, particularly in light of climate change impacts
- Reduced uncertainty overall
- Potential for federal and private grant funding

**KEY FINDINGS AND CONCERNS:**

Current "agreed upon" price: **\$9.5 million for the lands, the easements and the entire operating system.** Per Avery Chumbley, Owner of the Wailuku Water Company (WWC) based on what the County is currently paying WWC for municipal water, the \$9.5 million would be recouped in 14 years. However, this calculation does NOT include repair, maintenance, modernization or other costs related to ownership of the system.

**Information About the Condition of the System is Lacking:**

- According to Hui O Na Wai Eha, the WWC system is archaic, with dilapidated infrastructure, some dangerous areas, and lack of mauka to makai connectivity in some streams, which are not conducive for future diversified agricultural models.
- There are 3 reservoirs in Na Wai 'Eha that are dangerous and need to be fixed.
- When a better appraisal including an assessment of the condition of the system was suggested by BWS members in October, Managing Director Sandy Baz stated that it would take a significant amount of money and time to get a better appraisal.
- There has been no physical inspection of the property and system by the County as yet.
- In October, Mr. Chumbley stated that the system is functional and reliable and it probably needs improvements to bring it up to a 21<sup>st</sup> century standard. Costs associated with the evaluation would be the buyer's expense and it would be the Mayor's choice to hire a civil engineer or structural engineer to do the assessment.

**The Cost of Repair and Long-Term Maintenance Impacts its Value (and Fair Price):**

- While \$2.5 million was originally budgeted for repair, maintenance, and evaluation, it's unclear what information this amount was based upon. Much more than \$2.5 million is likely needed for repair, maintenance, and evaluation.
- Currently, there appears to be \$500,000 in the budget for evaluation of the system.

- This lack of information means that the cost to County-wide ratepayers in the future is unclear.
- Wailuku Water Company probably won't be fixing the system so the longer we wait the more it's going to cost to repair it.

#### **Impacts on Farmers, In-Stream Users, and other Stakeholders Are Not Clear:**

- Ensuring that systems are monitored and diverters are complying with laws is critical to ensuring that instream users have access to water on a regular basis.
- There is no confirmed role for community members, kalo farmers, and others affected by the system, and in particular Hui O Na Wai Eha, which represents over 60 in-stream and off-stream users, in the current negotiations or future operation of the system.
- Mr. Chumbley estimated that deliveries from Wailuku Sugar, Wailuku Agribusiness and WWC to kuleana users is around 5 to 6 million gallons a day.
- In response to questions about kalo farmers who have rights to the water, Mr. Baz said that the County has a list of users and that they would maintain the water delivery to them. County attorneys will also look into what their requirements will be.
- There are other users that are not part of the Hui O Na Wai Eha such as the Kahili and Kamehameha Golf Courses, Rojac, Maui Tropical Plantation, Mahi Pono and other smaller users. Understanding the requirements of the delivery agreements with these commercial users if the County takes over ownership is important.

#### **Current Agreements Between WWC and the County:**

- From June to October 2020, WWC delivered to DWS 680,376,000 gallons of water. That is equivalent to an average of 4.45 million gallons per day.
- Lao Waikapu Ditch brings water out of Wailuku River to the Alu Road treatment plant.
- In 2004, the County and Wailuku Agribusiness entered into an agreement to deliver water to the old treatment plant on Alu Road before the new plant was built.
- In February 2018, the contract expired and there is currently no binding agreement to deliver water for treatment to the new Alu Road treatment plant, which has a maximum design load of 4.8 million gallons of treated water and an investment of about \$24 million. The treatment plant can only get water through WWC's system.
- WWC also delivers water to DWS through the Lao tunnel, which produced about 244 million gallons of water during a five-month period; that is 1.6 MGD. There is a long-standing agreement where the County receives a shared portion on a no cost basis of 1,073,000 gallons per day. An additional approximately 88 million gallons is paid for through a separate contract between WWC and the County.

#### **Current Negotiations between the County and WWC:**

- According to Sandy Baz, the County wants to avoid condemnation.
- Mr. Baz did not state whether the County would proceed with condemnation if an engineering evaluation reveals extraordinary costs of repair and modernization.
- The County is waiting for WWC to provide information on the system itself, easements, titles, etc. in order to understand the challenges and obstacles it would be acquiring.
- By County Code, the County can only acquire land that has clean title, but there are lands claimed by WWC without clean title. Not all the easements are recorded or identified.
- As of January 2021, Mr. Baz reported that the County is making sure that all legal issues and agreements are in place, and they are doing an assessment of the dams and reservoirs. Also in discussion is the County owned parcel towards Kahakuloa which would be used as an in-kind donation in the process.

### Negotiations between the County and the State:

- The State and County have agreed to bifurcate the sale, however, funding is an issue for both parties. The State will be requesting funding from the State Legislature and they will need to do their own appraisal of the conservation land.
- If the state does not purchase those lands, it's not clear how the County's purchase will proceed.

### Potential for Due Diligence:

- According to WWC owner Avery Chumbley, once there is a purchase and sales agreement, which outlines how the parties are going to interact with each other, WWC welcomes a full and complete due diligence process.
- According to Sandy Baz, there will be some type of letter of intent outlining some of the county's issues which WWC will respond to so that a purchase and sales agreement can be completed.

### Many Questions Still Exist About Future Plans for the System:

- The County has not provided information regarding how it intends to use the system nor has it provided projected revenue models
- How kuleana users will be affected has not been addressed.
- More information about water use permit applications is needed.

### Necessary Steps for Purchase According to Managing Director Sandy Baz:

- Once Council gives approval that that it is interested in the purchase, the Administration can do due diligence, which includes a physical assessment of the property.
- The next phase is to go back to Council to get their authorization. The Mayor can't execute a purchase and sale agreement without Council approval.
- The \$9.5 million authorization placed in the FY 2020 DWS budget expired as of December 31, 2020.
- The administration will be asking for a budget amendment and authorization, unless the Council decides to appropriate it during their deliberations of the final FY2022 budget.

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### Board of Water Supply Recommendations

Based on the above facts and uncertainties, the Board of Water Supply unanimously approved the following recommendation on February 18, 2021:

That Maui County authorize the purchase the Wailuku Water Company under the following conditions:

- An **MAI appraisal and engineering study** of the water delivery system that provides estimates of the **cost of repair and maintenance of the system** have been completed.
  - A **revenue model or user fees** are developed that take into consideration **community needs and desires for the system (as determined through a community engagement process)**, and which is equal to or in excess to the costs of repair and maintenance.
  - A **plan for operations and stewardship of the system**, including any additional costs, such as modernization of the diversion works and aqueducts, has been presented to the community.
  - An **offer for purchase is based on the foregoing information**, as well as any other issues such as title, easements, or permits that could affect the value of the asset.
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