

WATER RESOURCES COMMITTEE

Council of the County of Maui

MINUTES

November 22, 2016

Council Chamber, 8th Floor

CONVENE: 1:32 p.m.

PRESENT: VOTING MEMBERS:
Councilmember Gladys C. Baisa, Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Robert Carroll
Councilmember Stacy Crivello
Councilmember Mike White

EXCUSED: VOTING MEMBERS:
Councilmember Elle Cochran
Councilmember Don Couch

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

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: David Taylor, Director, Department of Water Supply
Jase Miyabuchi, Civil Engineer, Department of Water Supply
Jennifer M.P.E. Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Thomas Cook
Jim Smith
Dave DeLeon, Government Affairs Director, REALTORS® Association of Maui, Inc.
Rosemary Robbins
Thomas Croly
(2) additional attendees

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

WR-20: WATER SERVICES (CC 16-40)

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: . . .(*gavel*). . . Will the meeting of the Water Resources Committee please come to order. Today is November 22, 2016 and it's about 1:32 p.m. And before we get into our business today, I'm gonna take a point of personal privilege and that is to wish my husband, Sherman, a very happy birthday and many, many good healthy years. Thank you very much. Good afternoon. If you would please check our cell phones, all of us, to make sure that they're not live so that we won't have any singing in here even though I really don't mind. I'd like to introduce the Members that are here today. I have Mike Victorino, our Vice-Chair.

VICE-CHAIR VICTORINO: Chair, good afternoon.

CHAIR BAISA: Good afternoon. I have Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR BAISA: Good afternoon. We have our Chair, Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR BAISA: Good afternoon. And we have Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR BAISA: Thank you very much for being here, folks. And excused today is Elle Cochran and Don Couch. Folks, we also have with us Dave Taylor, the Director of Water Supply.

MR. TAYLOR: Good morning. Good afternoon.

CHAIR BAISA: Good morning. Oh, well, it's been a morning. Believe me. I am ready for an afternoon. And also with him we have our Deputy Corporation Counsel, Jen Oana.

MS. OANA: Good afternoon, Chair.

CHAIR BAISA: Good afternoon. And we also have sitting with us up here today Jase Miyabuchi, Engineer from Water who is going to become a permanent fixture here. Welcome, Jase.

MR. MIYABUCHI: Good afternoon.

CHAIR BAISA: We keep taking him away from working on those papers. I feel guilty, but we gotta do what we gotta do. Also with us today we have our Staff. We have Kimberley Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning...good afternoon, Chair.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: We're a morning Committee. That's the problem. We don't normally meet in the afternoon. And we also have Clarita Balala, our Committee Secretary. Thank you, Staff, for all of your hard work. I really appreciate you folks a ton. And in the District Offices, we have Dawn Lono in the Hana Office. Dawn?

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office.

CHAIR BAISA: Good afternoon, Dawn. Thank you. And in our Lanai Office, we have Denise Fernandez.

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR BAISA: Hi, Denise. And in the Molokai Office, we have Ella Alcon.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR BAISA: Thanks, Ella. Members, today we have one item on our agenda relating to backflow prevention, and we're going to begin this afternoon by taking public testimony. Testimony will be limited to the item on the agenda today, and if you wish to testify we ask you to please sign up at the desk out in the lobby or at one of the District Offices if you're out there. Testimony will be limited to three minutes and upon request a minute to conclude. I think most of the folks that I see here are familiar testifiers so I'll save time. We have established a connection to the District Offices and to be fair we will rotate. When you testify, we'd appreciate it if you'd start by telling us your name, and if you're representing a group we'd like to know that also. In the Hana Office, Dawn, do you have anyone wishing to testify?

MS. LONO: There's no one waiting to testify at the Hana Office, Chair.

CHAIR BAISA: Thank you, Dawn. And in the Lanai Office, Denise, do you have anyone wishing to testify?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

CHAIR BAISA: Thank you. And in the Molokai Office, Ella, do you have anyone wishing to testify?

MS. ALCON: There's no one here waiting to testify.

CHAIR BAISA: Wonderful. Ms. Willenbrink, do we have testifiers in the gallery?

MS. WILLENBRINK: Yes, Madam Chair, we do.

CHAIR BAISA: Members, without objection, I'd like to proceed with public testimony.

COUNCILMEMBERS: No objections.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: Thank you. Ms. Willenbrink, let's go.

MS. WILLENBRINK: The first person signed up to testify is Thomas Cook. Thomas will be followed by Jim Smith.

CHAIR BAISA: Thank you.

. . .BEGIN PUBLIC TESTIMONY. . .

CHAIR BAISA: Good afternoon, Mr. Cook. Welcome back.

MR. COOK: Good afternoon, Chair, Councilmembers. My name is Thomas Cook. I'm here as a individual. I'm a general contractor. I've been building on the island for years. I'm in support of the Water Department's wanting to implement the backflow preventers and the cross-connection. I am asking it be disconnected from the permitting...not used as a lever for the building permits. First off, the mechanics and the necessity of preserving and protecting the integrity of our potable water is the Water Department's jurisdiction and they're doing a good job. I'm also for that. It is a very real possibility to siphon contaminated fluids into the water system and the backflow preventers prevent that. They can be...they're relatively inexpensive for residents, both the materials and the labor to install. They can be rather expensive for large facilities. Larger facilities would be more dangerous and have much more likelihood of putting a significant amount of contaminants in. We have so many, in my opinion, we have many impediments to the building permit review process and for this work to have to be performed before you could have your building permit reviewed or significantly impacting the review process I think is overly burdensome. So that's the one critique that I have. The enforcement mechanism could be done alternately, I mean, turn people's water off or charge 'em triple rates if they don't, if they say they're gonna do something and they don't. But please, please, please look at the building permit review process and don't do anything to impede it. We need to collectively work together to facilitate the review and to expedite the review without jeopardizing the public's health. So I hope that helps in your review, so this is something that...let me close in this, many times government mandates can be interpreted as overreaching and over burdensome to the community. In my opinion, this one is burdensome but it's not overreaching. I'm just hopeful that you can implement it in such a way that it doesn't have collateral stickiness to cause cost delays and cost, the financial cost and time cost, and people being able to build businesses and build homes. Thank you very much for the opportunity.

CHAIR BAISA: Thank you very much, Mr. Cook. Members, any need to clarify the testimony?
Chair White?

COUNCILMEMBER WHITE: Thank you, Chair. Thanks for coming again. And thanks for helping us through these processes. Just to be clear, what...are you concerned about the wording where it says, Department shall require the installation of backflow preventers during its review of commercial building permit application? So in that...is

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

your concern that you're required to install these during the approval process as opposed to after?

MR. COOK: If it doesn't delay the approval process, it would be fine during it, but if it...too often it's sort of like, just gets sort of stuck. Like you have to install it before we'll even look at it.

COUNCILMEMBER WHITE: Okay. So you're concerned that they're requiring installation before they even look at your building permit?

MR. COOK: Correct. If all of the departments can be reviewing and approving and if it's applicable making an approval in the process and the Water Department distills down to the very last item to issue the permit, you have to have a commitment to install this backflow preventer. To me, the backflow preventer should be installed with the plumbing that's being done on the property.

COUNCILMEMBER WHITE: Right.

MR. COOK: Not hiring a plumber to come in advance and do one installation. Is that clear?

COUNCILMEMBER WHITE: Yeah. No, that's perfectly clear, and I think your concern is likely well founded.

MR. COOK: Thank you, sir.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

CHAIR BAISA: Thank you. Anyone else have any need for clarification? Mr. Victorino?

VICE-CHAIR VICTORINO: No, no.

CHAIR BAISA: No. Oh okay.

MR. COOK: Thank you, Council, and have a Happy Thanksgiving. Aloha.

CHAIR BAISA: Hang on a second, Tom. Chair White, where...can you tell me exactly where you were reading from?

COUNCILMEMBER WHITE: On Page 5.

CHAIR BAISA: Page 5 of the bill.

COUNCILMEMBER WHITE: Yeah, Page 5, G, building permits, number 1 says, the department shall require the installation of backflow preventers during its review of any commercial building permit application and during any commercial premises review by the department.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: Okay.

COUNCILMEMBER WHITE: It makes it sound like you have to install it while they're reviewing it as opposed to --

CHAIR BAISA: Okay.

COUNCILMEMBER WHITE: --installing it after they get the permit to move ahead with the project.

CHAIR BAISA: Thank you. I want to highlight it so we'll come back and talk about it some more with the Department.

COUNCILMEMBER WHITE: Okay. Thank you.

CHAIR BAISA: Okay. Any other clarification? Seeing none, Tom, thank you very much.

MR. COOK: Thank you.

CHAIR BAISA: And Happy Thanksgiving. Ms. Willenbrink?

MS. WILLENBRINK: Our next testifier is Jim Smith. Jim will be followed by Dave DeLeon.

CHAIR BAISA: Good afternoon, cowboy.

MR. SMITH: Good afternoon, Chair Baisa, Members of the Water Committee. I just had two points to make. I see your agenda and there's a letter dated November 14. Okay. It looks like another bill. Okay. But there's no connection on your agenda to another bill that's been requested. Okay. And so I have testified in the past on this issue saying, gee, take all that stuff and leave it in the Plumbing Code, but don't put it in a statute, don't put it in our Code. So I just wanted to see that bill that was requested and I don't see it here. So I would suggest that it would have to be on an agenda when you take it up and I hope it will be on an agenda when you take it up. So that's just one point, that's a point about this. The second point I have is once again our Code is being corrupted from the inside. A Member of this Council said that the...so many changes were made to the Chapter 19 that it's impossible to go through it. Okay. Well, that's taking place all over our Code, which means you don't be governed by rule. Okay. If you can't understand the rule, if you gotta be an engineer, and if you can't follow the threads through X, Y, and Z section then it's not acceptable for a common guy like myself. So I looked at the old bill without looking at the new bill hoping that you've recognized the wisdom and that you've thrown a lot of that stuff out and that you leave it to the Building Code, but I don't know if that's true because I haven't read the new bill. But I hope it is true. Okay. And if it's not true, please this is a systematic problem and it's been done in a systematic way and we gotta put the foot down now and say let's have no more of this. And the way to do that is to take this Water bill, okay, and file it. Let 'em come back with a new bill in the next term, easy. Thank you so much.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: Thank you, Mr. Smith. Members, any need to clarify the testimony?

MR. SMITH: Happy Thanksgiving all of you.

CHAIR BAISA: Ms. Willenbrink, on the matter of that bill, it's my understanding that we have it.

MS. WILLENBRINK: Yes, Madam Chair. It was transmitted to the Department of Corporation Counsel on November 14 along with a red-lined copy for comparison. And...

CHAIR BAISA: Could we supply Mr. Smith with a copy? I would appreciate that.

MR. SMITH: I mean, I don't see a return item on this agenda saying bill. It doesn't need it?

MS. WILLENBRINK: It's not signed yet.

MR. SMITH: Oh, it's not signed yet.

MS. WILLENBRINK: Yes.

MR. SMITH: By who?

MS. WILLENBRINK: But it's on the...by Corp. Counsel.

MR. SMITH: Oh. So it's come forward unfinished?

MS. WILLENBRINK: It's come forward and posted without being signed.

MR. SMITH: Well, signed is approval, right? I mean signing is not just a hiccup.

MS. WILLENBRINK: That's correct.

MR. SMITH: All right.

MS. WILLENBRINK: That's correct.

MR. SMITH: Thank you so much.

CHAIR BAISA: Okay. Thank you, Mr. Smith, for pointing that out. We're aware of it. Thank you. Okay. Ms. Willenbrink?

MS. WILLENBRINK: Yes, our next person signed up to testify is Mr. Dave DeLeon. He will be followed by Rosemary Robbins.

CHAIR BAISA: Good afternoon.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

MR. DeLEON: Good afternoon and aloha. Thank you for this opportunity to speak on Water Resources, item number 20. I'm Dave DeLeon speaking for the REALTORS® Association of Maui. Generally speaking, this bill appears to be moving in the right direction, going from a universal requirement on all properties to a much more nuanced requirement focused on more commercial properties. While the bill itself does not define what it means by commercial, what is implied still seems a bit broad, too broad and in some cases seems to be contrary to the policies set in Maui County Code. Given that the goal of this measure is to protect the public water system from accidental contamination, RAM can support its intent. Given that the imposition of this requirement could negatively affect residential property owners by slowing down the access to building permits, requiring expensive water system improvements, and creating a requirement for annual testing and compliance reporting. We also believe that these requirements should only be made when absolutely necessary. They should not be made broadly. In that regard, on Page 5 of the bill, the following items strike us as examples of being too broad. The item dealing with condominium property regime. Maui County Code treats CPRs less than four units as residential properties. CPRs simply refers to the type of ownership and does not imply any use other than residential nor does it imply any additional density beyond what the zoning allows. Please amend that section by changing more than one to four or more CPRs. Vacation rentals, again, Maui County Code clearly states that licensed B&Bs and short-term rentals are a residential use as a matter of policy. This bill seems to imply that they are commercial and should be treated differently than other residences. Please amend the bill by dropping this item. And commercial use, the new home-based business ordinance sets up and allows for all kinds of business activities in the Residential District. In some cases, home-based businesses like manufacturing, backflow prevention could seem like it makes sense. In others like an office arrangement for a consultant or sales person, the impacts are identical to residential. Lumping these two different categories into one category requiring backflow protection is too broad. Separating them apparently would require giving the Director some degree of discretion to make that appropriate determination of which use should be, should require backflow protection. The bill seems to offer that type of discretion. I would say, let's depend on that, let's use that rather than creating a statement in the Code like the one in G, 2, G that basically is going to lead line staff to be a little bit too enthusiastic and actually treating things too broadly. Mahalo for your consideration and your hard work on this important issue.

CHAIR BAISA: Thank you, Mr. DeLeon. Members, any need to clarify the testimony? Seeing none, Dave, thank you very much.

MR. DeLEON: Mahalo and Happy Thanksgiving.

CHAIR BAISA: Happy Thanksgiving to you, too.

COUNCILMEMBER WHITE: Chair? Chair?

CHAIR BAISA: Yes, Mr. White? Hang on, Dave, I think Mr. White has a question.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

COUNCILMEMBER WHITE: Yeah, your testimony mentions G, 2, item C as relating to condominium property regimes, but I don't find that under G, 2.

MR. DeLEON: Are we looking at the same bills?

COUNCILMEMBER WHITE: And we may be...I'm looking at the red line ones.

MR. DeLEON: I didn't have the red-line bill. I had the one that you can get off of Legistar yesterday. It might be a different bill but...

CHAIR BAISA: Same bill.

COUNCILMEMBER WHITE: No, the other numbers line up, but C relates to the permit is for the construction of a new water storage tank on the premises or the permit review reveals an existing water storage tank on the premises.

MR. DeLEON: Well, maybe the numbers don't line up; however, if...I don't know whether in that bill you have there it still has condominium property regimes as an item and that would be the one you would look at.

COUNCILMEMBER WHITE: I don't see it.

CHAIR BAISA: I...

MS. OANA: Chair?

MR. DeLEON: F.

CHAIR BAISA: I see it.

MR. DeLEON: Dave says F.

CHAIR BAISA: Ms. Oana, could you help?

MS. OANA: Section, Subsection F.

MR. DeLEON: Okay. It moved around.

COUNCILMEMBER WHITE: Okay.

MR. DeLEON: So it's a different...

COUNCILMEMBER WHITE: There it is.

MR. DeLEON: Okay.

CHAIR BAISA: It just moved but it's there.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

COUNCILMEMBER WHITE: Okay. Thank you.

MR. DeLEON: All right. Thank you.

CHAIR BAISA: Okay. Thank you, Dave. Ms. Willenbrink, anybody else?

MS. WILLENBRINK: Yes, Madam Chair. Rosemary Robbins and she will be followed by the final person signed up to testify, Thomas Croly.

CHAIR BAISA: Good afternoon.

MS. ROBBINS: Good afternoon, everybody. Good job. One thing that Mr. DeLeon did not say but that I found in the records when I went through it, I loved the way you phrased this, just let's say that our permit process is not well known for its efficiency, quoting him in there, so well said. And the people who have been concerned over this, huge part of the population and I'm not part of that but I couldn't miss it. And also he had brought up adding as much as \$500 in cost to a single-family property by having to comply with all of these. That's a whale of a lot of money for a lot of the people especially who are older, whose houses as well as themselves have been around for a long time, and so we need to be careful of dealing with everybody. I did go through the folder this morning, and I'm just reminded about the fact that by water all things find life and we get that statement in our bill whenever the bill comes. And that water is a public trust here in the islands. So also that a couple of elections ago, the people who put initiatives in wanted to make sure that we were in the County with pono. Amen, so to all of that. One of the people who worked on the Upcountry Oversight and Advisory Committee in the early 2000s, that was because people Upcountry were getting sick and water seemed to be the shared universal element in that. I picked it up on an item in the newspaper, had never done any of this though I had done a lot of other stuff in water and thought, oh, maybe I can learn lots more and did. The EPA Director on Region 9, Alexis Strauss came out with a document saying that Maui's Upcountry water was contaminated with lead and other contaminants. That statement got restated by the people in the County that just talked about lead, never mentioned the other contaminants. The EPA taught the group of us how to test the water and when the results were sent to out-of-state labs, they came in with different results, not confidence producing to the people in the community. I must say that there was a member of that Upcountry Oversight and Advisory Committee who one night when she went into brush her teeth at 10:30 after the news, no water. Oh my, went to another bathroom in the house, no water there either, kitchen, outside garden hose, nothing. She called the Water Department who was reluctant to do anything at that point; however, she did say, you know, you're in the phonebook as responding, please do, and so they sent up a wonderful young man who got out of his truck, you understand it's about quarter of midnight now, out of his truck, and gave the same mantra that we had kept hearing those of us working on that committee which was keep in mind that anything between the meter and the heater is your property and your responsibility. So he then went over to the black box, what's wrong here, dry lawn that he was walking on, and followed the piping from there out and sure enough piping, nothing, piping and no water having come down. So whoever

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

organized that caprice certainly was not being careful about the wellbeing of everybody in there. That lady did not get into trespassing or reckless endangerment or a lot of the other things that could have gone to court out of that but was very concerned to follow through and the Department of Water was not. So to my knowledge that had not happened to others on the committee, but we know that that had happened to at least one person. We're here as a community for everybody. So I am asking too that I got 16-40 out of the records up there this morning and that was from the Water Director who is not a hydrologist to Chair White talking about this bill that's coming up. And then also a notification that was in the folder on the 7th floor from the County Clerk reminding the Chair, Gladys, that the Council of County of Maui at its meeting of October 7, 2016, recommitted Committee Report No. 16-155, 156, excuse me. So this thing has holes all over the place and please do not let this be something that is going to cause stress, perhaps greater illness by way of especially the fact that we have a dearth of five or six positions in the Water Department to be able to address the problems that are there. So in no way is this bill that has been all over the place something that should become law for us now. So thank you. I agree with all the other people who pretty much said that.

CHAIR BAISA: Thank you very much. Members, any need to clarify the testimony, any questions? Seeing none, thank you.

MS. ROBBINS: You're welcome.

CHAIR BAISA: Happy Thanksgiving to you, too

MS. ROBBINS: Likewise.

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, ma'am, the final person signed up to testify is Thomas Croly.

CHAIR BAISA: Good afternoon, Mr. Croly.

MR. CROLY: Good afternoon, Chair. Good afternoon, Committee. I participated in this item now for the, I guess, the fourth time. And I support what the Department is trying to do, they're trying to protect our water supply and that deserves support. It creates an onerous situation and one that is not going to be administrated well. Their ideas...most of the ideas in here with respect to residential homes should be addressed in the Plumbing Code. It should not be addressed here. Okay. When someone installs a swimming pool, the filling mechanism for that swimming should have a backflow preventer on it. When someone installs an irrigation system, the connection of that irrigation system to the house's plumbing should have backflow on it. And pretty much all the valves that you buy residentially have a backflow preventer on those valves for residential use. So those are things that should be addressed in the Plumbing Code. I'm offended by the overreach that is taken here where they say, oh, if it's a bed and breakfast let's just slap this on them. There's no basis for that whatsoever. This is was just silly to put that in there. But beyond that, what I've observed over ten years and

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

you guys have seen me before you for ten years, we create legislation with good intent but we pile regulation on top of regulation and then we ask it to be administrated. In this case, we're asking the Department of Public Works to administrate it and they're not even here to review what their role would be in this. For example, give you a simple example. How do we determine whether someone already has a backflow preventer or not? Do we ask them to send a picture of it in? Do we ask them to have a certified plumber come in and say whether it's there or not? It should be on some plans when a plumbing permit is filed. And as we discovered in the Committee's last meeting, they don't even review them or the Water Department doesn't review new resident first dwellings on lots. So now we're putting all the onus on I'm coming in for some simple little remodel, I want to put a deck on my house. Oh, now you have to put in this backflow preventer, because we discovered you have a swimming pool or we discovered that this or that. This is not the way to administrate this. It really isn't, but if we're going to move this forward for the purposes of trying to accomplish the goal that the Department has, I did submit written testimony and I gave you the items that I think that should be struck from it that would eliminate a lot of the problems for residential review. But as Tom Cook said, this shouldn't even be the place where we're reviewing it. We shouldn't be stopping building permits for renovations for this issue. The enforcement mechanism which was what Tom referred to it. How do we determine they're there? There should be a different way to do that than saying, stop a building permit for something completely unrelated and check to see if they've done this, which we didn't check to see at the very beginning of the process when they built the house. So I don't know if you want to move this forward today or not. If you do, please take my advice and strike items A, items B, items G, and make the change that Dave DeLeon recommended to item F and that at least reigns this bill in to a great extent and only applies it to the commercial uses that might present a problem. Thank you.

CHAIR BAISA: Thank you, Tom. Members, any need to clarify the testimony? Any questions? Seeing none, Tom, thank you. Ms. Willenbrink?

MS. WILLENBRINK: There's no one further signed up to testify.

CHAIR BAISA: Is there anyone in the gallery who hasn't testified that would like to testify? I don't see anybody coming forward, but I'll make a round of the District Offices just to make sure that no one is out there. Hana, Dawn, do you have anyone that showed up?

MS. LONO: No one is waiting in the Hana Office to testify, Chair.

CHAIR BAISA: Thank you. How about on Lanai? Denise, has anyone shown up to testify?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR BAISA: Thank you. Ella in Molokai, is anyone there wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CHAIR BAISA: Thanks, Ella. Members, there are no persons in the District Offices waiting to testify and none here in the gallery. So without objection, the Chair would like to close public testimony.

COUNCILMEMBERS: No objections.

CHAIR BAISA: So ordered. Thank you.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR BAISA: Okay. Gotta get the technology together here. Members, Water Services, WR-20, is our subject matter today. The Committee is in receipt of correspondence dated November 14, 2016, from me, transmitting a revised proposed bill entitled A Bill for an Ordinance Amending Title 14, Article 1, Maui County Code, Relating to Cross-Connection and Backflow Control and Water for Fire Service. The purpose of the revised proposed bill is to require consumers and owners of real property in some circumstances to install a backflow preventer on properties connected to the Department's water system and to generally prohibit connections that could contaminate the Department's potable water system. Members, you may recall that I asked that this bill be recommitted to this Committee because it needed further consideration. Thank you, Mr. Taylor, for submitting language to incorporate into the bill for clarification. I think the revised bill is much clearer and will allay some of the concerns that the members of the public had; however, I think there's more concerns that the public has and so we have to work some more. On our desks is a marked up version that you can easily see the revisions we have marked in red so you can find the changes. Mr. Taylor, I have a question and when...then I'll open the discussion to the Members. If I recall correctly at the last meeting you said you do not review plumbing permits, is that correct? And if so, under G, 2, did you add the language relating to plumbing permits because you were going to request to start reviewing them?

MR. TAYLOR: Madam Chair, Mr. Miyabuchi can answer that.

CHAIR BAISA: All right. Thank you. Jase, if you would?

MR. MIYABUCHI: Jase Miyabuchi, Department of Water. Yes, that's true. Currently our Department does not review brand new plumbing permits that come to the County system. Although in the future that may be a requirement that we would ask of DSA but currently not right now.

CHAIR BAISA. Okay. Members, any questions in that regard? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. The question that comes to my mind is if backflow preventers are so important, why aren't they in the Plumbing Code? So that...because that would mean that even when there's a new building permit requested that doesn't come to you, that a backflow preventer would be a part of the construction anyway by Code.

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

MR. MIYABUCHI: I believe the Plumbing Code does make requirements for various types of backflow prevention devices. Some not as higher end, I guess, as the ones we're looking for, but the Plumbing Code does, you know, they have air gaps and vacuum breakers and whatnot for certain situations for pools and irrigation, so it does make those requirements. Although it doesn't...it may not comply with our Department's standards as far as location and type of backflow preventers that we're requiring.

COUNCILMEMBER WHITE: Well, I guess, the question is where were you guys when the Plumbing Code got passed?

CHAIR BAISA: They were like me, not here. Jase, if you can help?

COUNCILMEMBER WHITE: Yeah. I don't recall when we passed the last Plumbing Code. Does anybody...

CHAIR BAISA: It's been a few years. I was here when we adopted a new Plumbing Code but that was a while back, I think.

VICE-CHAIR VICTORINO: About six years ago if I recall correctly, Madam Chair. But it's been a while.

CHAIR BAISA: Yeah. Mr. Victorino, probably remembers.

VICE-CHAIR VICTORINO: Yeah. Something like that, yeah.

CHAIR BAISA: Yeah. It's been a while.

COUNCILMEMBER WHITE: Well, I guess, then the next question is if they have a problem with the Plumbing Code requirements being too light, then shouldn't we be amending the Plumbing Code instead of messing with this bill?

MR. TAYLOR: Thank you.

CHAIR BAISA: Mr. Taylor, go right ahead.

MR. TAYLOR: Chair White, we would be 100 percent in support of that direction. Let me go back in time also, I mentioned last time I was here about the grease trap bill. That was something similar that the Plumbing Code says you have to have a grease trap. And what happened back in the day is in Wastewater, I remember we sort of wanted DSA or the plumbing inspectors to take a more aggressive role in administering that and it just wasn't happening. So what ended up happening is a separate ordinance that Environmental Management takes that role because it's protecting the environmental management system. Both Water and Wastewater, we don't really want to go on people's properties, you know, because both grease traps and, in this case sort of the analogy is, backflow preventers are on people's properties. We would rather have DSA run the whole show. And so I would prefer from a management standpoint to have this whole

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

thing added to the Plumbing Code and have DSA administer the whole thing. I don't think the DSA plumbing inspectors are really looking forward to taking that role on, but from our perspective, we would certainly welcome that.

COUNCILMEMBER WHITE: But it's...if I might, Chair?

CHAIR BAISA: No, go right ahead.

COUNCILMEMBER WHITE: If backflow preventers are already required in the Plumbing Code and it's just a matter of the quality of backflow preventer that are being installed, that would seem to me not be an additional burden on the, on DSA because they're still gonna be looking for backflow preventers, but they're gonna be looking for a specific quality level or specific, you know, couple of brands. Or am I missing something?

MR. TAYLOR: I don't disagree with you in the sense that when an applicant comes in, they really just want to deal with the County, not necessarily one department or another. So it comes down to who is going to take ownership of that and make sure it gets done, follow up on, et cetera. As the Department of Water Supply, we really want this done and so we take it seriously. If the Development Services Administration would take that same level of ownership, like I said, I would be thrilled if they would take that same level of ownership we had and make sure it got done. I don't have any problem with it. There's not a reason they can't do it. I don't know that they would take the, have the same sort of aggressive nature in order to get it done that we would have. I'm not sure that they're not protecting their own skin.

COUNCILMEMBER WHITE: I'm still puzzled though by the...if they're gonna be looking at backflow preventers, I don't...and the goal is to have higher quality ones installed, then that seems to be a relatively easy fix. And then, I guess, and I'm still puzzled by the fact why we don't review the initial building permit.

CHAIR BAISA: That's correct and we've had that verified. That is the case that only building permit applications for the first dwelling are not sent to Department of W, the DWS.

COUNCILMEMBER WHITE: Yeah. And I'm not suggesting that we have to go that route, but if...it seems to me that if we fix it in the Plumbing Code that you guys wouldn't, still wouldn't have to do that and it wouldn't be added to the process for new home construction. But, I don't know, Madam Chair, it just seems like we're trying to get something done but not necessarily approaching it in the most efficient fashion but...

CHAIR BAISA: Thank you very much, Mr. White. I'm very open to, you know, the feelings of the Committee and if we feel that, you know, we wanna defer action on this or even file this and have someone try again next year in another way. I have no preference, one way or another. My job here is to facilitate. The Department asked to see if we could get this through and we've spent an awful time, a lot of time looking at it, and I still continue to have concerns from the public that they don't understand what we're trying to do and think it's convoluted or, you know, it's not okay. And so I don't feel

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

comfortable in wanting to push something out when we still have a lot of concerns. You know, that's not what this Council wants to do.

VICE-CHAIR VICTORINO: Chair?

CHAIR BAISA: Mr. Victorino?

VICE-CHAIR VICTORINO: Are you done, Mr. White?

COUNCILMEMBER WHITE: Yeah, I'm done. Thank you.

VICE-CHAIR VICTORINO: Okay. I wasn't sure. I was waiting to hear...

CHAIR BAISA: Go right ahead.

VICE-CHAIR VICTORINO: You know, and, you know, like this morning's meeting, the same thing here, you know. It gets to a point where enough questions are being raised that, you know, if more time is needed then, by golly, we won't be here but that's okay. It's not for a lack of attempt and not a lack of trying to get things completed so that the departments can operate in the meetings that they ask or desire. But I, too, have a few more concerns. I understand what backflows, I mean, you know, and I've done this and but if it's there and it's gotta be done then why are we making it a Code item and, yeah. You know, I agree with you, Madam Chair. I have the same feeling. I'd rather just defer this and push it for next year when they have the time to look over. You know, again, we don't have the full Committee here also and that's another issue that, you know, it gets kind of funky when you don't have everybody here and then come to the Council meeting they asking questions like why and they weren't here. So anyhow, whatever you decide, Madam Chair, I can support. I don't think this is earth shattering and this won't destroy or stop the Department from doing their job or DSA. So whatever you recommend, Madam Chair.

CHAIR BAISA: Yes, well, you know, along with, you know, maybe looking at this a little bit more we might want to give the new Council Water Resources Committee Chair, whoever that is, have them look into this idea of the...a first dwelling being exempted and maybe looking more carefully at plumbing permits and how that's done, you know, they could spend more time doing that. We don't have a whole lot of time at this point. So I can raise these issues, and I certainly would hope for a nice transition with my successor, whoever that turns out to be. I'll be available and able to, you know, convey our concerns and hopefully they'll be taken up. Any further questions that you folks want to ask today? Mr. Taylor, any more that you'd like to comment on?

MR. TAYLOR: Madam Chair, I'd just like to thank the Council and the public for input. We'd be more than happy next term if this is carried over to have another discussion with DSA about this and next time this is talked about to also invite the DSA Administrator here so that we can coordinate those issues you're bringing...those are really valid issues about the Plumbing Code. At the end of the day, whether this language is added to the Plumbing Code or whether it's a separate code or whether we do the work or they do the

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

work, the same things are gonna happen and the same number of man hours are gonna be put in. So we're definitely open to having that discussion about how it's best to be done. So we have no concerns about that and we'll be more than happy to facilitate that.

CHAIR BAISA: Thank you very much. Members, anything else that anybody would like to say? Mr. Victorino?

VICE-CHAIR VICTORINO: Madam Chair, and really quickly, you know, I'm sorry we can't get it done today. I don't like leaving work behind, but we cannot do anything more. If we feel like the new Council this will be a better time and place and DSA would be here, which we should have asked for today. And I apologize, I didn't think about it, maybe we could've got more done. But I agree with you, Madam Chair, let the new Council have an opportunity. Let them get their feet wet like we did when we walked in.

CHAIR BAISA: Pardon the pun that we're in the Water Resource Committee, right?

VICE-CHAIR VICTORINO: You got it, ma'am.

CHAIR BAISA: About getting their feet wet.

VICE-CHAIR VICTORINO: There you go.

CHAIR BAISA: But I really think, Members, that the best thing for us to do based on everything is to defer this matter without objection.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: EC and DC)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR BAISA: Seeing none, that is so ordered. And I would like to thank everyone. I especially. . .

VICE-CHAIR VICTORINO: Madam Chair?

CHAIR BAISA: Yes?

VICE-CHAIR VICTORINO: Point of personal privilege --

CHAIR BAISA: Please go right ahead.

VICE-CHAIR VICTORINO: --before you go on. I want to thank you very much for your leadership this past session, this past Council term. I think, you know, you came in and I tried to help. I helped you as much as I could and guided you along. I was very honored and pleased to have worked with you, not only as a colleague for the last ten years but as your Vice-Chair this past year. And in the ten years I've been on this

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

Council, I've either been the Vice-Chair or the Chair of this Committee and we've done a lot of yeoman's work and you've brought a lot of good things forward and I want to thank you very, very much. And I want the public to know that there was never a moment that we didn't try to get something done for whether it's Upcountry, whether it's Molokai, Lanai, I don't care what part of this County when it came to improving the water systems and making sure that sources as well as transmission lines were as capable and as, what do you call that, as quality as possible. And I don't think we ever let that slip during the ten years that you and I have served on this, and you've been on the Committee all those ten years also, if I'm not, if I'm correct.

CHAIR BAISA: That's correct.

VICE-CHAIR VICTORINO: So I want to thank you very much for your leadership and I wish you nothing but continued success and good luck to you and thank all the Members for being here and all their support through the years and let's see what we can do in the future.

CHAIR BAISA: Thank you, Mr. Victorino. However, folks, don't get the wrong idea. For those of you who have calendars or are putting stuff down in your calendars, November 30th, we have another Water Resources Committee meeting and I will be, of course, filing the items that we're gonna file and moving forward to the next year the items that we want to move forward. And if we're lucky enough to have a quorum, on the December 14th meeting, I will not be here because I will be on vacation but my gracious Vice-Chair, Mr. Victorino, is planning to Chair that meeting. So he's not getting out the door totally scot-free. I feel very comfortable in leaving my Committee in his hands.

VICE-CHAIR VICTORINO: Madam Chair, I took the point of personal privilege because I will not be here on November 30th.

CHAIR BAISA: Oh, you're not coming?

VICE-CHAIR VICTORINO: No, because I will be in California.

CHAIR BAISA: Oh, on the 30th but you're gonna be back on the 14th.

VICE-CHAIR VICTORINO: Yes, ma'am --

CHAIR BAISA: Okay.

VICE-CHAIR VICTORINO: --but I won't be here, so I wanted to pay my compliments to you because at the next meeting I will not be here.

CHAIR BAISA: Thank you. And I will not be at that December 14th meeting except I will be live streaming it in Mexico. It works beautifully. I did it last year and it's really exciting 'cause you can see and hear everything that's happening. The only thing is it's frustrating 'cause you can't vote. I think we need to work on those rules. I can't imagine why we don't allow that considering technology is what it is today. But anyway for

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

today, thank you very much and I appreciate all the consideration, especially all the public. You guys in the gallery have been so loyal and showed up every time to share your manao. I appreciate it. And I want to thank my Staff. You know, they really, really work hard and try to do their best. And I want to thank the Water Department and the legal department. You know, they work with us constantly and they do...we do a lot of good stuff together so I want to thank them. You know, this show that goes on does not happen because of a Chair, it happens because there's a team that works together and it works together very well. So I want to express my thanks. I want to wish everybody a very Happy Thanksgiving and Happy Holidays if I don't catch you at that 30th meeting. Happy Holidays! And again, I want to thank the public very, very much for the opportunity, if you don't hear me then, to serve you. It's been a real honor and a privilege to do it. So without further ado, I think we're done for today folks. The meeting is adjourned. . . .(gavel) . . .

ADJOURN: 2:20 p.m.

APPROVED:



GLADYS C. BAISA, CHAIR
Water Resources Committee

wr:min:161122:mb

Transcribed by: Michelle Balala

WATER RESOURCES COMMITTEE
Council of the County of Maui

November 22, 2016

CERTIFICATE

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

DATED the 12th day of December, 2016, in Makawao, Hawaii



Michelle Balala