

AGRICULTURE AND PUBLIC TRUST COMMITTEE

Council of the County of Maui

MINUTES

September 14, 2021

Online Only via BlueJeans

CONVENE: 1:31 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Shane M. Sinenci, Chair
Councilmember Gabe Johnson, Vice-Chair
Councilmember Kelly Takaya King, Member
Councilmember Alice L. Lee, Member
Councilmember Michael J. Molina, Member (In 1:35 p.m.)
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member

STAFF:

Kasie Apo Takayama, Legislative Analyst
Nicole Siegel, Legislative Analyst
Lesley Milner, Budget Committee Analyst
James Forrest, Legislative Attorney
Keoni Shirota, Committee Secretary
Kristeena Locke, Council Services Assistant Clerk

Gina Young, Executive Assistant to Councilmember Shane M. Sinenci
Roxanne Morita, Executive Assistant to Councilmember Gabe Johnson
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King
Laura McDowell, Executive Assistant to Councilmember Michael J. Molina
Sarah Freistat Pajimola, Executive Assistant to Councilmember Keani Rawlins-Fernandez
Evan Dust, Executive Assistant to Councilmember Tasha Kama

Zhantell Lindo, Council Aide, Moloka'i Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lāna'i Council Office (via telephone conference bridge)
Mavis Oliveira-Medeiros, Council Aide, Hāna Council Office (via telephone conference bridge)
Michele Blair, Council Aide, West Maui Office (via telephone conference bridge)

ADMIN.:

Jeffrey Pearson, Director, Department of Water Supply
Eva Blumenstein, Water Resources and Planning Manager, Department of Water Supply
Stephanie Chen, Deputy Corporation Counsel
Jennifer Oana, Deputy Corporation Counsel

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

OTHERS: Walter Kanamu
Others - 2

PRESS: Akakū: Maui Community Television, Inc.

CHAIR SINENCI: . . . *(gavel)* . . . And sveiki, Members. Welcome to the Agriculture and Public Trust Committee meeting of Tuesday, September 14, 2021. It is 1:31 p.m. My name is Shane Sinenci, the Chair of the Committee. I'm here at the Hāna Cultural Museum with my EA, Dawn Lono. Before we begin, this online meeting is being conducted in accordance with the Governor's most recent emergency proclamation on COVID-19. Please see the last page of the agenda for information on meeting connectivity. Members, the Governor's most recent emergency proclamation also includes the following mandate. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present or to identify those locations. In the notice required by Section 92-7 HRS, provided that at the meeting, each board member shall state who, if anyone, is present in the nonpublic location with members. In accordance with the Governor's mandate, if you are at a nonpublic workspace, when your name is called, please identify by name who is present with you in the room, vehicle, or workspace. So with that, joining us today we have Committee Vice-Chair Gabe Johnson. Sveiki.

VICE-CHAIR JOHNSON: Good afternoon, Chair. Good afternoon, Members. And sveiki. Sveiki to all of you. All right. Looking forward to an exciting meeting.

CHAIR SINENCI: Mahalo.

VICE-CHAIR JOHNSON: I am home alone.

CHAIR SINENCI: Excellent. Oh, home alone. Okay. Next we have Councilmember Kelly King. Sveiki.

COUNCILMEMBER KING: Not sure what that accent was, Mr. Johnson, but sveiki.

VICE-CHAIR JOHNSON: It was my Count Dracula accent.

COUNCILMEMBER KING: It almost was almost a Texas accent. I am actually...same place, in the spare bedroom alone. Thank you. Good afternoon, everyone.

CHAIR SINENCI: Okay, mahalo for joining us. Next we have Chair Lee. Sveiki.

COUNCILMEMBER LEE: Sveiki, Mr. Chair. And yes, I agree, you know. Every time Member Johnson gives us his greeting, it's so colorful. Sounds nothing like we're supposed to say it but, hey, it's a lot of fun.

CHAIR SINENCI: Yes, Chair Lee.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER LEE: And I'm here by myself. I'm by myself.

CHAIR SINENCI: Yeah, we're very...an accommodating Council. Thank you for that. Next, Councilmember Molina has indicated that he's just running a little late and will join us in a little while. Next we have Councilmember Tamara Paltin. Aloha 'auinalā. Sveiki.

COUNCILMEMBER PALTIN: Aloha 'auinalā kākou and sveiki. I'm at the Lāhainā West Maui District Office with my daughter, who didn't go to school today, and now I got to figure out how she's going to get back to school with no testing on the West side...and Angela as well. Thank you.

CHAIR SINENCI: Yes, Member Paltin. The struggle is real, like every other parent with keiki. Mahalo for that. Next we have Council Vice-Chair Ms. Rawlins-Fernandez. Sveiki.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Moloka'i nui Ahina. I am at the Moloka'i District Office by myself. And sveiki kākou.

CHAIR SINENCI: 'Ae, mahalo for joining us this afternoon. And Members, as always, we have our Non-Voting Members, Pro Tem Kama and Councilmember Sugimura. They're always welcome to join us should they choose to. Today, mai ka Administration we have Mister...oh, I just saw Mr. Molina pop up. Sveiki, aloha 'auinalā.

COUNCILMEMBER MOLINA: Me ke aloha 'auinalā to you, Mr. Chairman, my colleagues, and my apologies for being late. I was just in the process of doing a report. During the break I was over at the dog park. As I was sitting on the bench, a large tree branch just barely missed me. So I just --

CHAIR SINENCI: Oh.

COUNCILMEMBER MOLINA: -- get that back to the Parks Department to make sure that we have someone out there to address the matter, and keep our trees trimmed and safe so that we don't have any future incidents...any members of our public getting hurt. So anyway, glad to be here and glad to be unhurt.

CHAIR SINENCI: Yes, we're glad that you're...yeah, you're with us today, and thank you for following up with the Department. From the Administration, we have Director Pearson, sveiki. And also Ms. Blumenstein, Water Resource and Planning Manager. Aloha, Director.

MS. BLUMENSTEIN: Aloha, Chair.

CHAIR SINENCI: Mahalo for being here today. Also we have from our...Deputy Corporation Counsel Ms. Chen. Sveiki.

MS. CHEN: Aloha, Members. I'm not sure...my video doesn't seem to be working, but...hello just the same.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. All right. Thank you for that. And Members, our Staff working on the Committee meeting today is Ms. Kasie Apo Takayama, Mr. Keoni Shirota, Mr. James Forrest, Ms. Nicole Siegel, and Ms. Kristeena Locke. Excuse me. Sveiki and aloha 'auinalā.

MS. APO TAKAYAMA: Sveiki, Chair and Members.

CHAIR SINENCI: Members, we have one item, APT-57, the Water Use and Development Plan for Maui as we begin to wrap up our water use series. Staff, do we have any testimony signup today? Testifiers?

MS. APO TAKAYAMA: Chair, we do have a couple of individuals logged into the meeting. They haven't indicated whether they wish to provide testimony, but we do have a couple.

CHAIR SINENCI: Okay, let me go ahead...let's begin with public testimony. Oral testimony via phone or teleconference will be accepted. Testifiers wanting to provide video testimony should've joined the online meeting via the BlueJeans meeting link, <https://bluejeans.com/411641115> as noted on today's agenda. Testifiers wanting to provide audio testimony should've participate via phone conference by dialing 1-408-915-6290 and entering meeting code 411641115, also noted on today's agenda. Written testimony is highly encouraged. Instructions on how to submit testimony can also be found at mauicounty.us/testify. Moving on to oral testimony. Oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I'll kindly ask you to complete your testimony. When testifying, please state your name. If you are testifying on behalf of an organization, or if you're a paid lobbyist, please inform the Committee. Please be mindful of the use of chat during the meeting. Chat should not be used to provide testimony or chat with other testifiers. If you are here to provide testimony, please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you're done testifying, you'll be asked to disconnect from the call. However, you're welcome to continue to view the remainder of the meeting on *Akakū* Channel 53, Facebook Live, or on mauicounty.us. Participants who wish to view the meeting only without providing testimony, please also disconnect at this time and instead view the meeting on *Akakū* Channel 53, Facebook Live, or visit mauicounty.us/agendas. Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. I'd like to remind Committee members, Administration, and the public to please be patient if we run into any technological issues. Staff has been monitoring people joining today's meeting by phone and by video, and we'll do our best to take each person up in an orderly fashion. If you're connected to the meeting and have not indicated that you do not wish to testify, Staff has added your name automatically to the testifier list and will call on you when it is your turn. Okay, with that, is there...can you please call the first testifier?

MS. APO TAKAYAMA: Chair, we currently only have one individual now connected to the call, and that's Walter Kanamu.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

. . . BEGIN PUBLIC TESTIMONY . . .

CHAIR SINENCI: Okay, aloha Mr. Kanamu. Pehea 'oe? Are you here to provide testimony? Okay. Is...did we just have Mr. Kanamu?

MS. APO TAKAYAMA: Yes, Chair. The other individual logged off the meeting.

CHAIR SINENCI: Okay, is there anyone else wishing to testify out there? Go ahead and indicate in the chat or just unmute and provide your testimony. Okay then. Members, seeing there are no more individuals wishing to testify, without objection, I'll now close oral testimony.

MR. KANAMU: Aw, shucks.

CHAIR SINENCI: Oh.

MR. KANAMU: I have a question. Sorry.

CHAIR SINENCI: Okay. Aloha.

MR. KANAMU: Aloha. My 'ohana...I don't know if you've heard of them, the Kauhiho family, has a Land Commission Award and a Royal Patent up on the top of the mountain at Waialua. It's a place where the waters from Huluhulupueo and the water from Waihe'e comes together at the top of the mountain in Waialua, and this is up in Waihe'e Valley. And that's our family's land up there where both of the streams come together through our property. So the Land Commission Award is 4289, and the Royal Patent is 5328. And if you look at the map, the old maps of Wailuku Sugar, on the top of the map in a rectangle box it says Royal Patent 5328, Land Commission Award 4289, Apana 1 and 2 to Kauhiho at Waialua near Waihe'e ditch intake. It says location is undetermined, but I know the location. Our family knows the location. And that's the exact spot where the water comes out of the mountain down to Waihe'e. So I think I have some interest in what the County is now planning. So I'd like to voice my opinion and say that's all I have for today. Maybe somebody would like to talk to me. I'd like to talk to somebody.

CHAIR SINENCI: Okay. Mahalo, Mr. Kanamu, and mahalo for your testimony. Yes, can you maybe share your...you can go ahead and share your contact at APT.committee@mauicounty.us, or you can call our office and leave a message at 270-7246.

MR. KANAMU: And who do I...270-7246?

CHAIR SINENCI: Yeah. If you can just go ahead and leave your contact number, and then we can return your call.

MR. KANAMU: Okay. My number is 760-8224.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. Mahalo, Mr. Kanamu. Members, any questions for Mr. Kanamu? Seeing none, mahalo for joining us today, and we'll get in contact with you. Thank you. Okay, Members, I do see Ms. Barry in the chat. Barbara Barry, are you here to provide testimony today...this afternoon?

MS. APO TAKAYAMA: Excuse me, Chair. She disconnected from the call.

CHAIR SINENCI: Oh, okay. All right, great. Thank you.

MS. APO TAKAYAMA: Thank you.

CHAIR SINENCI: Is there anyone else wishing to testify? If not, Members, any objections to closing oral testimony and accepting written testimony into the record?

COUNCILMEMBERS: No objections.

CHAIR SINENCI: Okay. Mahalo.

. . . END PUBLIC TESTIMONY . . .

ITEM 57: WATER USE AND DEVELOPMENT PLAN FOR MAUI (CC 19-162)

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, you're muted, Chair.

CHAIR SINENCI: Thank you, Ms. Rawlins-Fernandez. Again, Members, we have one item today, APT-57, Water Use and Development Plan for Maui. County Communication 19-162 from the Director of Water Supply, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE ADOPTING AN UPDATE TO THE WATER USE AND DEVELOPMENT PLAN FOR THE ISLAND OF MAUI." The purpose of the proposed bill is to adopt the attached document as an update to the Maui County Water Use and Development Plan in accordance with Sections 14.02.020, 14.02.040, Maui County Code. The Committee may discuss the Maui Island Water Use Development Plan draft with additional focus on Appendix 10, Part 2, Water Resource Adequacy, Islandwide Strategies and Recommendations, the Upcountry water meter list, and other related matters. Members, a document has been distributed to you and placed on Granicus to guide today's conversation. Staff, share that...or what item is that in Granicus, please?

MS. APO TAKAYAMA: Chair, it was e-mailed to the Members.

CHAIR SINENCI: Oh.

MS. APO TAKAYAMA: I will check on the number of the item and drop it in the chat.

CHAIR SINENCI: Okay. Thank you, Ms. Apo Takayama. It should be in your email. Okay. With that, during our August 17th meeting, we went over Appendix 10 strategies,

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

discussed Part 2 Water Resource Adequacy, Islandwide Strategies and Recommendation, but we left off on number 33 in Appendix 10. So for today, Members, we'll pick up from there, finish off those strategies, and then we'll move to Table 13-1 in Part 2. Questions at this point? Okay, good. And then, of course, Members...oh, yeah. Go ahead, Chair Lee. Did you get it?

COUNCILMEMBER LEE: Okay, what item is this again? The...what you sent into Granicus?

MS. APO TAKAYAMA: Chair, it'll be item number 91 in Granicus, but it looks like it just hasn't loaded in yet. It's also in SharePoint and was emailed to the Members when we gaveled in.

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER PALTIN: Appendix 10.

CHAIR SINENCI: Okay. Chair Lee, did you need extra time to retrieve it?

MS. APO TAKAYAMA: It's now available, number 91.

CHAIR SINENCI: It's 91 in your Granicus. Okay. Then we'll go ahead and...Members, just a reminder, we have Director Pearson and Ms. Blumenstein that we'll refer to for their input as we go through today's proceedings. Looks like Kasie shared the link in the chat as well. Okay? Okay, Members, we had left off at number 33 of Appendix 10. We just got a few more to do. I know that we did receive some proposals from Member Paltin we've been going through. I think for 33 under Appendix 10, develop wells for increased reliable source Upcountry reduced surface water transport, it looks like...Staff, did we get the proposal from Member Paltin on required knowledge of cultural practices in Upcountry areas as well locations should be discussed as part of ongoing communications with our native Hawaiian groups? Did we include number 33? Go ahead and share screen.

MS. APO TAKAYAMA: Number...

CHAIR SINENCI: Go ahead and share screen.

MS. APO TAKAYAMA: Okay. Will do.

CHAIR SINENCI: Yeah.

COUNCILMEMBER PALTIN: I do see it included in the document that was emailed in green.

CHAIR SINENCI: Okay. Just as a reminder, Members, Appendix 10 was where the Department collected all of the community input, as well as some of the...and we're adding some of the Aha Moku input as well. So...but they're not...the Appendix 10 is not necessarily...not everything in Appendix 10 has been chosen for implementation within the Water Use Development Plan. So that's why from here, we're hoping our next step

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

is to actually put it into Part 2, 13-1. We're not putting everything in there. Some of it has already been chosen by the Department, so we're just kind of going over and looking at things that might have come up after the fact. Okay, moving on. We didn't have anything for number 34, 35, 36. However, 37...Member Paltin, did you have expand capacity of water treatment plants for seasonal use?

COUNCILMEMBER PALTIN: I actually had a comment on 36, if that's all right.

CHAIR SINENCI: Oh, okay. Sorry, I might have had it not lined up. Okay, 36, Members, increase connection between the Maui Department of Water Supply subdistricts.

COUNCILMEMBER PALTIN: And I had thought that there was a goal about having more 'ahupua'a-based water management. And that's kind of like keeping the water within the 'ahupua'a that it resides. And so it kind of seemed like this would contradict that goal. Just wondering if...any comment from the Water Department on that contradiction.

CHAIR SINENCI: Director Pearson, or Eva.

MR. PEARSON: I can start and maybe Eva can add to this, but I guess everybody here knows that when there's development in the dry areas or drier areas, then we move to the wetter areas and try to provide water needed for growth. So I definitely see Member's point and I'm not really opposed to that, but I think in the reality of it all is we cannot keep the water for one area just in that area the way Maui County has been developed. So I don't know if you want to add to that, Eva.

MS. BLUMENSTEIN: Sure. Yeah, the preliminary strategy to, you know, look at increasing connection between subsystem and even between district is...they have the extra to increase reliability. I mean, all those planning objectives are not compatible, there are trade-offs between them. So I hear what you're saying, there's a goal to try to rely on regional resources and mitigate transport out of the watershed or an 'ahupua'a. But at the same time, you're going to have droughts or, you know, a hurricane or any sort of incident where you need to have backup, you need to rely on water resources from other locations. So I think it's a good thing to have the option of connecting subdistrict and districts.

COUNCILMEMBER PALTIN: Okay. Thank you for that explanation. I prefer the backup explanation to the expansion development in dry areas reason. I don't know if you could clarify that this increased connection between Maui DWS subdistricts is in case of drought or in case of a need rather than to be relied upon for expansion? Is that all right to do?

MS. BLUMENSTEIN: And Chair, if I can clarify too.

CHAIR SINENCI: Go ahead, Ms. Blumenstein.

MS. BLUMENSTEIN: Okay, yeah. So this was, again, the preliminary strategy. The final

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

strategies that made it into islandwide and to regional plans is...one, is the studying the interconnection between central and Upcountry system for reliability; and two, to develop contingency agreements between purveyors to rely on each other that may be permitted on the West Side in terms of any kind of mechanical or equipment failure, or something like that. Those are the two selected strategies that made it into the plan.

COUNCILMEMBER PALTIN: Okay. So could we remove this strategy or no?

MS. BLUMENSTEIN: So this is...again, the Appendix 10 are not the strategies that were selected in Table 13-1 that you're going to look at today. Table 13-1 is the summary of all the islandwide strategies and recommendations, yeah. So all the preliminary strategies that you're looking at in Appendix 10 were, as Chair mentioned, the preliminary resource options that was vetted by the community...you know, debated, looking at the pros and cons and tradeoffs and whatnot. Some of them, but not all, made it in, or we didn't select them as final strategies. So this one does not...is not reflected really as is in Table 13-1 or in the region.

COUNCILMEMBER PALTIN: Okay. All right. Thank you. Sorry, Chair. Thank you.

CHAIR SINENCI: No, excellent question, Member Paltin. And then question for Ms. Blumenstein. You're saying just the Upcountry to Central connection you are currently working on, but should you go into...and this one, it says East and West Maui and Nā Wai 'Ehā, those would be subject to IIFS standards as well, yeah?

MS. BLUMENSTEIN: Well, the two strategies that were selected, one was for the Department to look at the potential interconnection between the Upcountry system and Central Maui system just in terms of connecting the infrastructure. There is sort of a gap along Baldwin Avenue that's been looked at briefly in the past, if that would help to increase reliability or not. So that's not really in terms of, you know, IFS or transporting water, it'd be more like a reliability strategy. And the second one for West Maui was to develop contingency agreements, I guess, between the Department and private purveyors as backup, and we have equipment failure or long-term drought or hurricane, something like that.

CHAIR SINENCI: Okay. Thank you for that. Any other questions, Members, on...but this wasn't the strategies beside the connection between Upcountry and Central Maui, West Maui. Okay, if not. Moving right along. We didn't have...Member Paltin, did you have anything for number 37 to expand capacity of water treatment plants for seasonal use?

COUNCILMEMBER PALTIN: Well, it is a traditional concept, but it could be misused. I think strategy 11 of no new stream diversions is good, but it's not adequate because it's based on the assumption that IIFS are connected to sound management rather than being political decisions by appointed members of CWRM. Also based on the fact that status quo is sound policy when status quo is already harming cultural users, which the WUDP doesn't acknowledge, and the Department of Water Supply policy doesn't really do anything to proactively address the harms to cultural users by existing diversions and other practices. That's just my comment.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. We did...under the last column strategy 13, it says increase of surface water for municipal needs during wet season when all public trust uses are satisfied, including kuleana and traditional and cultural users. Ms. Blumenstein, is this one of the strategies that were chosen?

MS. BLUMENSTEIN: Expanding capacity of water treatment plants, it is not a selected strategy for West Maui. It was reviewed and analyzed in Chapter 19 and not selected as a viable strategy. It was considered for Upcountry contingent upon...so that would be the option of expanding Kamole Weir Treatment Facility, contingent on mass flow analysis of the Kamole Ditch, current IFS and long-term agreement with EMI Mahi Pono, and also in combination with development of groundwater for reliable capacity.

CHAIR SINENCI: Were some of the...any of the Ha'ikū streams that are listed in Appendix 16(a) affected by the Kamaole [sic] Weir?

MS. BLUMENSTEIN: Yeah. Kamaole [sic] Weir draws water from Wailoa Ditch, which divert petitioned streams that are included in that appendix, yeah. So they're subject to the IFS that were adopted in 2018.

CHAIR SINENCI: Right, and...

MS. BLUMENSTEIN: Kamole Weir...Wailoa Ditch also diverts water that nonpetition streams.

CHAIR SINENCI: Right. And we did have several streams in Ha'ikū that didn't have stream data, yeah? I don't know if those...you know, when some of our testifiers, like Kaneali'i comes on and asks for...like some of the Kuiaha Stream doesn't have any rain gauges in them so...but they could very well be being diverted on top?

MS. BLUMENSTEIN: They could be diverted too, into Wailoa Ditch as well. Yeah.

CHAIR SINENCI: Okay. Thank you for that. Any other questions, Members? Okay, moving right along, we have number 38. We had highlighted maximize R-1 reclaimed wastewater system capacity and use. More R-1 production could decrease use of surface water, but use of injection wells may potentially increase the pollution impacts to nearshore water resources of native Hawaiian cultural practitioners. Increasing the use of R-1 water rather than injection should reduce impacts. Okay, yeah, this is...is this a strategy that's been implemented? Or we might...I think we're going to be implementing that one in Table 13-1, that's why we highlighted it. Okay? And Members, I don't see everyone, so if you want...if you have any questions, just go ahead and unmute, ask your question. Okay. We didn't have anything for 39.

COUNCILMEMBER MOLINA: Chair.

CHAIR SINENCI: Again...oh, go ahead, Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. If you're on strategy 39, I have one

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

question for that, and I had a question for strategy 35. I apologize, I missed the train on that one, so if you'd permit me to ask that question whenever you deem it appropriate.

CHAIR SINENCI: Yeah, go ahead.

COUNCILMEMBER MOLINA: Okay, let...

CHAIR SINENCI: Go ahead and ask.

COUNCILMEMBER MOLINA: Okay, let me first ask my question on 39. Let's see, it has to do with expanding requirement for commercial properties within 100 feet of reclaimed water system to connect and use R-1 water for landscape irrigation. My question is, will there be any exceptions to this requirement? For example, like being too close to the shoreline or too close to a certain type of facility?

MS. BLUMENSTEIN: I can address that, Chair.

CHAIR SINENCI: Okay, go ahead, Eva.

MS. BLUMENSTEIN: Yeah, this was one of the strategies that also made it into the islandwide definitely support for maximizing use of R-1 water. The strategy would be just to expand upon the current requirement, to go beyond the requirement to connect when you are within 100 feet and for commercial properties. So that would require amendment of County Code. And the plan doesn't define in exactly, Member Molina said, if it should exempt certain uses or if it should be expanded to 200 feet or 1,000 feet or such. I mean, we don't really want to get into that detail, this is more the strategy that yes, we support that that requirement should be expanded. It should be...should allow this one way of making sure that you maximize the use of available R-1 water.

COUNCILMEMBER MOLINA: Okay. All right. Thank you, Ms. Blumenstein. And Mr. Chair, I guess after everyone has had their opportunity for strategy 39, then if you would permit me to ask a question on strategy 35.

CHAIR SINENCI: Sure thing. Any other questions for 39? Looks like that...just one question for Eva, will the Department propose the amendment to Chapter 20.30?

MS. BLUMENSTEIN: I think we put that on Department of Environmental Management.

CHAIR SINENCI: Okay.

MS. BLUMENSTEIN: Because the plan guides all County agencies, yeah, so...

CHAIR SINENCI: Okay, thank you. Seeing no other questions. Member Molina, you wanted to go back to number 35, require private public systems to develop in a manner facilitating interconnection with Maui DWS systems or integrated management.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER MOLINA: Yes, Mr. Chair. If I could ask a question on that first. To the Department, what would be the recommended increase in cost to private systems, and if you'd tell us how would this strategy be achieved between private and public systems?

MS. BLUMENSTEIN: Chair, Member Molina. I don't think this preliminary strategy made it into the final candidates, but it was discussed in community meetings because of issues where systems that at some point failed and now wanted to be, you know, purchased or saved by the County, but they were built, you know, with substandards or maybe missing blueprints of where the infrastructure is. So this was kind of just the option of going forward, should a private system be required to develop to same system standards as DWS. But as I said, it didn't make it into the final cut.

COUNCILMEMBER MOLINA: Okay. Well, thanks for letting us know about that because I had also been thinking if any private systems, would there be a requirement to allow private systems a percentage of water with the public system. So...anyway, but since it didn't make the cut, I guess it's somewhat moot. I think Director Pearson wanted to add a comment, Chair.

MR. PEARSON: Yeah. Thank you, Eva. Actually, in practice we have...excuse me, we have done this, and I'm sure our Member from Moloka'i knows this, that when we had to have a planned shutdown for our Kualapu'u Well for replacement of the pump and the motor, that we worked with DHHL, and they allowed to provide additional water to meet our needs while our well was down. And as far as the cost, we paid them the rates that they requested when we were down. And what we need to do is work on an agreement so next time this happens, either direction, that we'll have an agreement to show what the costs are and how we're going to facilitate this interconnection. It's also happened where we've been able to work with Hawai'i Water Service. We haven't really had to go far with them, but we're working on potential interconnections on the West Side. And we have in the past connected with the Kapalua Water Company to augment our source on the West Side when we've had issues on the West Side. So it's been done in the past.

COUNCILMEMBER MOLINA: Okay. Thank you very much, Mr. Director. And thank you, Ms. Blumenstein. Thank you, Chair, for your indulgence.

CHAIR SINENCI: Okay. Thank you, Member Molina. And looks like we did include 35 and 36 within the strategies for implementation for you to vote on later this afternoon. So we can continue that discussion when we go into Table 13-1. Okay? Moving along, we're on 39. Okay, 40, expand R-2 Kahului Wastewater Treatment Facility distribution and/or upgrade to R-1. Ms. Blumenstein, is this one that made...

MS. BLUMENSTEIN: Yeah. Yeah, that one is also included --

CHAIR SINENCI: Okay.

MS. BLUMENSTEIN: -- in Chapter 15 for Central System...or Central district.

CHAIR SINENCI: Okay, great. Moving right along, Members. Number 41, expand R-1 system

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

from Kihei Wastewater Treatment Facility. Member Paltin, did you have...

COUNCILMEMBER PALTIN: Oh, I just had a question if...the Monsanto property in North Kihei, do they already use the R-1 water?

CHAIR SINENCI: Do you know, Eva, if they...

MS. BLUMENSTEIN: I believe that was one of the options explored, to expand the R-1 from Kihei. I don't think they're currently connected, but I'm not 100 percent sure.

COUNCILMEMBER PALTIN: Oh, okay. All right. Thank you.

CHAIR SINENCI: Director Pearson.

MR. PEARSON: Yeah, I'm sure they're not currently connected, but I think it's in their long-range planning for DEM.

CHAIR SINENCI: Thank you for that update. Any other questions, Members? Okay, moving right along. And just to...this was one of the Aha Moku conservation policies and ordinances to address water conservation for better resource management. That was their comments on number 41. Number 42, implement R-1 expansion from Mahinahina Wastewater Treatment Facility. Offset potable water usage. Member Paltin.

COUNCILMEMBER PALTIN: Just...also, this could cut down on use of water, Honokohau Stream water as well, correct?

CHAIR SINENCI: Eva?

MS. BLUMENSTEIN: Oh, yeah. Yeah, we're certainly --

COUNCILMEMBER PALTIN: Okay.

MS. BLUMENSTEIN: -- want to support maximizing that use. In fact, we really try to encourage any non-potable needs on West Side now to take advantage. And I mean, that...it means investing in expanding the system too. I mean, there has to be a kind of collaboration between DEM and private developer or DHHL or whatever the party is, yeah. So...

COUNCILMEMBER PALTIN: Yeah.

MS. BLUMENSTEIN: . . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: Yeah, and I think we already started with the purchase of that reservoir in the middle. So we're working towards it, right?

CHAIR SINENCI: Eva, was this...okay, supportive. Eva, was this a strategy?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

MS. BLUMENSTEIN: Yeah.

CHAIR SINENCI: Okay, great.

MS. BLUMENSTEIN: Yeah.

CHAIR SINENCI: Okay, moving along, Members. Number 43, program to use small grey water systems or small residential commercial, amend State and possibly County regulations. Member Paltin, did you have comments on this one?

COUNCILMEMBER PALTIN: Yeah, I think many rural Hawaiian communities could benefit from more user-friendly grey water regulations. So full support with this one, and the next one as well.

CHAIR SINENCI: Okay. Number 44, incentives for residential, small commercial catchment systems, including roof, tank, underground storage systems can be used for landscape water use, water quality issues. 43, it says amend State and possibly County regulations. Eva, is that...would that require State Department of Health?

MS. BLUMENSTEIN: Yes. And we...so the Department, we are already trying to implement some kind of pilot projects to kind of test out using grey water systems, and apply for the first one in the state, and we certainly faced a lot of hurdles with that. That one was specifically for parks and we would like to see, of course, you know, additional use for residential and commercial. But just considering the grey waters is not really under the Department's jurisdiction. This is kind of part of our conservation program to just pilot test that this would be viable on a larger scale. So for...on a commercial scale, the Department support that, but I don't know that DWS should be the lead agency.

CHAIR SINENCI: Okay. And I remember we did have a pilot project at Kanahā Beach Park, where they were to use some of the grey water for watering some of their plants.

MS. BLUMENSTEIN: Yeah, with...the first one we're trying to get off the ground is for Launiupoko Beach Park on the West Side. And if that works, Kanahā Beach Park is the next. Those are the two highest potable water using parks on the island, so...

CHAIR SINENCI: Great. Okay so...

MS. BLUMENSTEIN: Yeah, if those succeed, you know, great. But we're not quite there yet.

CHAIR SINENCI: Okay. Thank you. So these are strategies that have been implemented. Okay. Number 44.

VICE-CHAIR JOHNSON: Chair, I had a question.

CHAIR SINENCI: Oh, go ahead, Member Johnson.

VICE-CHAIR JOHNSON: I beg your pardon. Thank you, Chair. I have a question on number

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

44 in regards to the term, incentives. Can the Department explain what types of incentives they're looking at? Tax credits or free equipment to put it in? I'm not sure what that would be.

MS. BLUMENSTEIN: So the selected strategy for catchment for the Department is not the one in Appendix 10, it's in Appendix 13. So maybe we want to scrutinize them when they're there. For the Department's pilot or small catchment system, it's the rain barrel program that we're currently doing, which is pretty much a giveaway to residential customers. Anything beyond commercial catchment, that should not be under the purview of the Department. That becomes, you know, building code and the oversight of rain catchment systems that involves infrastructures, Department of Health.

VICE-CHAIR JOHNSON: I see.

MS. BLUMENSTEIN: So...

VICE-CHAIR JOHNSON: So the incentive would be a free barrel to catch the rainwater. Is that what we have right now?

MS. BLUMENSTEIN: Yeah, that's what we're doing right now. I mean, we'll support something beyond that, but if it's, you know, tax incentives, that should not be under the purview of the water rate funding.

VICE-CHAIR JOHNSON: Right.

MS. BLUMENSTEIN: Department . . . *(inaudible)* . . .

VICE-CHAIR JOHNSON: Well, maybe the upcoming Department of Ag would be a good place for it. All right. Thanks so much, Ms. Blumenstein. Thank you, Chair. I have no further questions.

CHAIR SINENCI: Mahalo, Member Johnson. Any other questions? Okay.

COUNCILMEMBER MOLINA: Chair.

CHAIR SINENCI: Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Chairman. Like Member Paltin, I support this strategy. I guess it's for non-potable use, and I appreciate the Department telling us the jurisdiction as far as the health issues who it would come under, Department of Health. But to your knowledge at this point, for the Department, no potential health code regulations with this? And also, is there a sanitary way to collect rain water that does not, you know, attract any specific type of insects or pests? Any thoughts on that?

MS. BLUMENSTEIN: Well, Department of Health has guidelines for construction and maintenance of rain catchment systems, so it's under their oversight. And, you know, that includes both in terms of disinfectants and mosquito insect nets and all that. I'm

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

not the expert on it at all, but that would be under Department of Health. So there's ways of doing it, for sure.

COUNCILMEMBER MOLINA: But at this point, no...you're not aware of any health code regulations with a strategy like this?

MS. BLUMENSTEIN: I'm not sure where...if DOH has issued requirements beyond the guidelines. All I'm aware of is actually the guideline.

COUNCILMEMBER MOLINA: Okay. Thank you. Yeah, like...another reason why I like this strategy too is because it's about water conservation and making use of, you know, getting as much bang for your buck, if you will, when it comes to water, yeah. Anyway, thank you, Ms. Blumenstein. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Molina. Any other questions, Members? Okay, moving right along, number 45, low impact project design for onsite water retention. I believe we've highlighted it. We included it in the strategies. Eva, was this one of the strategies. . .*(inaudible)*. . .?

MS. BLUMENSTEIN: I don't know if I remember all of this on top of my head, but not worded as such, but part of the proposed conservation ordinance, the target outdoor use and incentives from green infrastructure was sort of implemented this strategy. It wasn't worded exactly like this preliminary number 45. I would have to find it in Table 13. I think that's on the conservation ordinance language.

CHAIR SINENCI: Yeah. And Members, I know that we've asked Public Works...oh, and our Parks Department if they are paving over some of the parks, maybe using a newer type of...where they have these...almost a grate system so that if...you can still have parking, but you can still have the water retention onsite. And so there's no runoff from paved-over parking lots. Something that we can look through at permeable surfaces. Eva?

MS. BLUMENSTEIN: Yeah, Chair. It was in Table 13-1, it's strategy number 22, Revise County Code and/or incentives: Water-efficient building design integrating alternative sources (grey water, catchment).

CHAIR SINENCI: Oh, okay, good. It made it in the implementation. Okay, Member Paltin.

COUNCILMEMBER PALTIN: Just one comment. If low impact design is well defined, sometimes those underground storage tanks involve extensive ground disturbance that can impact cultural remains. So just a comment to, I guess, that there's full archaeological work done before the digging. Is that accounted for?

CHAIR SINENCI: Yeah, Member Paltin, we did pass the bill of four feet of digging.

COUNCILMEMBER PALTIN: Okay, thanks.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Yeah, that would require the archeologist's input. Okay. Moving on, number 46, desalination of brackish or seawater for agriculture irrigation. Member Paltin, did you have any comments?

COUNCILMEMBER PALTIN: Yeah, I just know there's a large segment of my community, the Hawaiian community, that is against any type of desalinization. They feel that if we got to the point where we have to rely on desalinization that we've overextended ourselves, I guess, you know, like he wa'a he moku kind of philosophy. That if we can't live within our means, then we're overextending our resources too much.

CHAIR SINENCI: This one looks like it would require...or...an NPDES permit.

COUNCILMEMBER PALTIN: Yeah. And I think the costs are pretty substantial as well.

CHAIR SINENCI: Okay. Moving right along, 47, maintain managed plantation ditch systems for continued potable and nonpotable water conveyance. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I guess I just would request more details, as this is an important issue, maintaining the ditch equals access to water. Is this for all ditches on Maui? And if so, the County should work very closely with the community to follow through. And the section should specify which systems and how Hawaiians would be involved in future management. There's a need for solutions to the 'auwai systems that no longer connect directly to streams, and it's a huge issue for continued cultural use.

CHAIR SINENCI: Okay. I believe we had...we've also included this in the strategies for implementation. Moving right along...thank you...stormwater reuse, capture flash supply as groundwater storage for treatment or utilize reservoirs to store irrigation supply for diversified ag. And I think we know that drought is an issue for some of the farmers, so storage during drought conditions was an important issue that they wanted to address. Let me check if we added this one into the implementation. Eva, is this...

MS. BLUMENSTEIN: Yeah. For islandwide strategies, the last one, item 61 in Table 13-1, is exploring and promote opportunities for large volume stormwater runoff for agriculture irrigation. And there's also region-specific strategies. There's four kind of stormwater capture opportunities that have been identified by CWRM. Those are in the regional plans as well.

CHAIR SINENCI: Okay, great. Thank you for that. Then moving on, Members, to number 49, water sense...water efficiency standard for new development and existing retrofit. Member Paltin, did you have discussion points on 49?

COUNCILMEMBER PALTIN: Just my notes says that traditional Hawaiian conservation management included dividing irrigation use by time of day to conserve water. So...

CHAIR SINENCI: Including the 'auwai and the ka ho'i wai [sic] returning water back into the streams after usage, yeah?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER PALTIN: Yeah. I think some of the old disagreements that I read that you first posted was like between 6:00 and 9:00 or something, they could divert like a few hours in the morning or something like that, and then it would go back to how it was.

CHAIR SINENCI: Okay. And then Eva, it says amend County Code, 20, 30 percent --

MS. BLUMENSTEIN: Yeah, the --

CHAIR SINENCI: -- water.

MS. BLUMENSTEIN: -- recommendation...the final kind of...our recommendation was to consider acquiring water sense, which is a EPA standard, for new development. So that would require a revision to County Code. And that would result...I mean, the savings EPA water sense compared to conventional is 20 to 30 percent water efficiency. So it wouldn't be a requirement for retrofits, I mean, that would be more incentives. So when we give...you know, give away free fixtures or any kind of appliance programs, those would be water sense compliant. But that wouldn't be...it wouldn't be a requirement for retrofitting existing housing, but it would be a requirement in new development.

CHAIR SINENCI: Great. Thank you. Any other questions? Okay, moving right along. We didn't have anything for 50 and 51, retrofit programs for existing development, outdoor water wasting and use controls. It looks like on...for 51, Eva, you guys had amend County Code, disallow overspray washing without hose nozzle, et cetera.

MS. BLUMENSTEIN: Chair, I have to go find that in the --

CHAIR SINENCI: Okay.

MS. BLUMENSTEIN: -- what made it into the table.

CHAIR SINENCI: Okay. All right. Number 52, water conserving landscape requirements for resorts, golf courses, and public facilities. And of course, Members, this has been a hot topic, especially with water usage in hotel districts and...versus having some of our residents put on restrictions Upcountry. So Member Paltin, the Aha Moku commented on this on conservation. They looked at other jurisdictions for resort water usage, our numbers allow much more, so they want to prohibit water features and pool usage in drought areas. They seek to penalize large water users, but first create categories of water use, such as public uses. Also capture cultural use numbers in anticipation of drier conditions due to climate change. I know Member Paltin...I mean, Member Rawlins-Fernandez had some prospective legislation for hotel usage.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, so the legislation that I'm working...I've been working on is not directly...doesn't directly name the hotels and resorts. It's more about egregious users, which happen to be hotels and resorts. So that's forthcoming.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. Thank you, Member Rawlins-Fernandez. We do have other large users, such as some of the high schools. Our hospitals are also large water users.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, just one. Just one high school, it was Baldwin High School.

CHAIR SINENCI: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And they explained about their agricultural program, that they lost non-potable water that they used to use for their ag program. So working with the different entities to try to figure out how to address their issues and maybe using R-1 water.

CHAIR SINENCI: Mahalo for that update, and thank you for pursuing that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Absolutely.

CHAIR SINENCI: Then Member Paltin, you had some comments?

COUNCILMEMBER PALTIN: Oh no, just strong support of that. Maui resort water standards are too high. So strong support.

CHAIR SINENCI: Thank you. And we also added...I believe we've added this in number 17 of Table 13-1 for implementation. Okay. Mahalo, Members. Okay, 53, 54, 55, 56, 57, and 58 we didn't have any on...input from Aha Moku. I don't believe Member Paltin had any required...oh, it says 54, require climate adapted plants for large, new developments. Has any of these strategies been accepted, Ms. Blumenstein?

MS. BLUMENSTEIN: Yeah, some. So I mean, if you look at the ones 52 on, they are not mutually exclusive, but they're sort of like a menu of options. That's why these are not...you know, they're kind of compared to each other, and the community would vet and tell us is this...should the Department focus on dry areas, or should this be equity throughout the island, and whatnot. So the way this translated into the selected strategies was incentives throughout island, focus requirement for xeriscaping, and targeting dry areas and water efficient irrigation systems for those areas. So that sort of was the feedback for what type of conservation requirements that the bill should include. And we also had input that community were not really favoring water police so to say, that there should be some...if we have provisions to restrict watering during certain hours of the day, or trying to address water conservation up front without making it too burdensome, to have to make it work, to make it implementable. So yes, not all these made into selected strategies, but on Table 13-1, strategies 16 through 22 summarize what were the selected strategies for conservation.

CHAIR SINENCI: Okay. Mahalo, Ms. Blumenstein. And Members, we did include number 58, use water rates as a means to encourage conservation as an implementation strategy. And so that would be something...if we're talking about tiered pricing...if we are going to do possibly tiered pricing for our most largest users. We did include that in a strategy

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

for implementation.

MS. BLUMENSTEIN: Yeah, it's number 17 in Table 13-1.

CHAIR SINENCI: Oh.

MS. BLUMENSTEIN: Aggressive tiered rate structure based on audit and rate study.

CHAIR SINENCI: Right...oh, okay. And yeah. So I do see Aha Moku and the community input also. Okay. Thank you for that.

VICE-CHAIR JOHNSON: Chair, I have a question.

CHAIR SINENCI: Go ahead, Member Johnson.

VICE-CHAIR JOHNSON: Thank you. This is for the Department. So I assume you guys have a system that...oh, and this is in regards to number 57. So I assume the Water Department has a system on how it manages...like it gets notified when there's a water main break. But what about like a leaky faucet or any kind of leaks or slow...do you have any way to monitor that, like a slow leak?

MS. BLUMENSTEIN: Sorry, the Director had to step away for ten minutes, but I'll try to answer this one. Yeah, our Fiscal Division will send out a notice if...the system kind of gives them a red flag if there's a large variation in water use, which would indicate a leak. So that may not be right away, unfortunately, you know. It may be 25 days later --

VICE-CHAIR JOHNSON: Right.

MS. BLUMENSTEIN: -- if the bill was just read. So we kind of just encourage folks, you know, look out for if you see green spots in the yard or just ways to be alerted to leaks. But we may not...we may not detect it at all unless there is a large variation --

VICE-CHAIR JOHNSON: Okay.

MS. BLUMENSTEIN: -- in your bill.

VICE-CHAIR JOHNSON: That's interesting. Because over here on Lānaʻi, as you know, it's a private water system. And whenever we get a...whenever there's a leak, we get a little ping on our phone that says, you know, the water company is detecting that you may have left a faucet on, or you may have a leak. Well, if the private water system could do something like that, whereas we...in the County, we say, wait until the end of the month to see if you have a leak. I don't think --

MS. BLUMENSTEIN: Well, we...

VICE-CHAIR JOHNSON: -- that that's following number 57 very well. So yeah, they use like smart technology to manage that. So that's where I was leading with that question,

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

Ms. Blumenstein.

MS. BLUMENSTEIN: Yeah. There is...Fiscal Division is pursuing the meter replacement program that you're probably aware of, replacing old meters with smart meters so that then --

VICE-CHAIR JOHNSON: Okay.

MS. BLUMENSTEIN: -- the customer has the option to actually monitor their own water use on a daily basis. So --

VICE-CHAIR JOHNSON: Okay.

MS. BLUMENSTEIN: -- that's ongoing so...

VICE-CHAIR JOHNSON: That's wonderful news because that kind of ties into number 57 to me, where like you got to be aggressive and that kind of thing so...okay. All right. Thank you, Chair, I have no other questions. It's really expensive. I believe it. Yeah.

CHAIR SINENCI: Mahalo, Member Johnson. Members, any other questions? Okay, seeing none, we just got a couple more on Appendix 10 and then we'll be finished. 59, surface water efficiency programs. Improvements to diversions, conveyances, storage, meters to reduce loss. Member Paltin, did you have any comments...59?

COUNCILMEMBER PALTIN: Oh, you know, just strong support of this strategy, and the County should advocate for it in front of State agencies. That's my only comment.

CHAIR SINENCI: Ms. Blumenstein, does the State...I mean, does the Department also advocate at State agencies? It says the CWRM, we're sending this to CWRM.

MS. BLUMENSTEIN: The question is whether the County advocates for surface water efficiency programs?

CHAIR SINENCI: Yeah --

MS. BLUMENSTEIN: Yes, we do.

CHAIR SINENCI: -- at...yes, you do. Okay, great.

MS. BLUMENSTEIN: Yeah.

CHAIR SINENCI: Mahalo. Mahalo for that. Then finally, last one, reduce water loss of potable and nonpotable systems. This strategy does have CIP projects that are addressing water loss?

MS. BLUMENSTEIN: Yeah. And reminder again that this applies to not just the Department. This plan is for private water purveyors and nonpotable purveyors. So yes, the

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

Department has a leak detection program. We do an annual water audit to define that discrepancy between production and consumption. But that should apply to all public and private water systems as well.

CHAIR SINENCI: Okay, great. And Members, that's...we reached all 60 strategies in Appendix 10. Mahalo for your...it took a couple meetings, but mahalo for your due diligence. Before we...Staff, did we miss anything, or did we have any revisits or anything that we were going to return to at this time? Or we can go ahead and move on?

MS. APO TAKAYAMA: Chair, we'll double check, but at the moment, I believe you covered everything. I think you can move on.

CHAIR SINENCI: Okay, great. We can stop screen share then. And thank you, Members, I mean, this is . . .being Appendix 10, after meeting with all of the Aha Moku groups, they felt that Appendix 10, a lot of their issues for community input that was put into this appendix wasn't always put into the strategies tables. And so that was the main...this was kind of the main part of the plan that they wanted us to revisit. So this was a great undertaking, and so mahalo for doing that. So the next stop is we'll go to Table 13-1 for implementation, but not...we'll go ahead and take our break, I think, now, just to move around, get up. Get off of your seats and get the blood flowing. So this APT meeting is now in recess until...we'll go to 2:55. . . . (*gavel*) . . .

RECESS: 2:41 p.m.

RECONVENE: 2:57 p.m.

CHAIR SINENCI: . . . (*gavel*) . . . Aloha kākou. And welcome back to the APT Committee meeting of Tuesday, September 14th. It is 2:57 p.m. Thank you, Members, for coming back promptly. It shouldn't be too bad, the rest of the meeting. As previously mentioned, Appendix 10 was the collection of community input to be later used by the Department to pick and choose from, to which strategies would be acted upon, implemented into the plan. So Members, these are policies and guidelines for the Department's toolbox that they could use, and then later on come back to the Council to report on on their annual report. But the Council has the authority to remove or to add any of those strategies at this time. So that's why...so we're going to go to Table 13-1, and it's...because we did most of the work in Appendix 10, we won't be going over all the yellow areas that indicate those Appendix 10 strategies that we had previously discussed and got consensus on. So basically, Members, we'll just go over the blue, which is the Aha Moku input, for your consideration today, as well as the purple items that were strategies based upon the community input.

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King, go ahead.

COUNCILMEMBER KING: Yeah. Is that document, the Aha Moku document, is that in Granicus?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Yeah, I believe this...it might be after Appendix 10, Kasie?

COUNCILMEMBER PALTIN: If you keep scrolling...

CHAIR SINENCI: Scroll down?

MS. APO TAKAYAMA: Yeah. It's the same document.

CHAIR SINENCI: Yeah, same item.

COUNCILMEMBER KING: Oh, it's the same? Okay.

CHAIR SINENCI: Yeah, 91. So scroll down, it'll say Table 13-1. Table 13-1 is Summary of Recommended Strategies that are listed in Part 2 of the document. So again, the yellow are strategies that we had already got consensus on and we included. And we'll just go over some of the Aha Moku input and the community input. So...and so at your leisure, you can go through, and if you want to bring up any...or if you want to delete or add. We've got additions. All of the highlighted areas are additions that we went ahead and added. Looks like...sorry, we didn't do the numbering, we just added some of those. So the numbering is still kind of off. Okay, did everybody access 13-1? Everybody has it? Okay. All right. So again, the first...there's a couple sections, and just to get you kind of used to this, the first column is the strategy, the planning objectives, the estimated costs, and the implementation timeline, whether it be short term or long term. And also, the different agencies that would help to implement those strategies. Okay. So let's get started. It looks like we've got a yellow section in number 1 is what we have added. We also added, after item number 2, expand watershed protection to lower elevations, that was another Appendix 10 strategy. Thank you, Staff. Then moving on to number 4, this is something for your consideration. Number 4, support stream restoration in all County testimony to State agencies, court briefs, increased use of kalo lands. And this was in all County testimony to State agencies and court briefs. And this was something that the Aha Moku had requested. Any questions or consensus? We're on number 4.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have a question.

CHAIR SINENCI: Member Rawlins-Fernandez. Yeah, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So stream restoration, do the testimony and court briefs explain what will be considered restoration? Like 100 percent or, you know, less than 100 percent? Do you know?

CHAIR SINENCI: Good question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then in all County testimony to State agencies, all County testimony...who is testifying? Who is the testimony on behalf of?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Looks like the Department.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. So the Water Department's testimony to State agencies, and then the State agencies would be CWRM and other...you know which other examples of State agencies?

CHAIR SINENCI: It does say court briefs, yeah. I mean, I don't know how much we can...if there's litigation going on, can we testify in those litigations? Ms. Blumenstein, did you have any comment on this one?

MS. BLUMENSTEIN: I don't...

CHAIR SINENCI: . . .*(inaudible)*. . .

MS. BLUMENSTEIN: Yeah. I just saw this one when you forward it yesterday. It doesn't state the Department and lead agencies. It says CWRM, Aha Moku, Community Grass Roots Maui County. So the way it's written, it does not apply to the Department.

CHAIR SINENCI: Yeah, I guess that would be Amicus briefs. It says court briefs.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I support the intent behind it, I just think the language would need to be tightened up so that it's clear as far as metrics. How do we determine if the strategy has been achieved? And then as Ms. Blumenstein pointed out, it just says Maui County and it doesn't direct a specific department, and so it's harder to enforce. Mahalo, Chair.

CHAIR SINENCI: Did you want to include the Department of Water Supply in the agency?

COUNCILMEMBER LEE: Mr. Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I guess --

CHAIR SINENCI: Okay...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- I would need to consult with those that proposed this so I can have a better understanding of --

CHAIR SINENCI: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- what this is.

CHAIR SINENCI: Yeah, this was the Aha Moku Council's. This was one of their...okay, we can check back and clean up the language. Chair Lee.

COUNCILMEMBER LEE: Yeah, I'm...I question whether we have the authority to require anybody in the Administration to take any particular position. Also, on the Council level, there are nine different people. So Members, this would presuppose that we

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

already agreed to this, but we haven't. And then every case is different, so I don't think you can require the Council to do it if we haven't had a chance to really discuss it. And as I said, we're all nine individuals and, you know, we may agree on some of these issues and maybe not others. And then the third thing is, I don't think we need...we should be requiring supportive testimony on any type of litigation when we don't even know what that litigation is. So this might be premature.

CHAIR SINENCI: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I guess my understanding is that's what we're doing right now is talking about it and seeing if we can come to an agreement. And for me, I think in terms of how much should be restored, at least mauka to makai connectivity because that's what you need at least...at the least to support aquatic life and the fisheries for the muliwai and, you know, I don't think that anybody should be stopping that mauka to makai connectivity. So I would imagine this is where we, as nine or seven, talk about it, if we agree to it or not, right here. And for me, I guess the metrics would be for the Department of Water Supply to support mauka to makai connectivity in any testimonies because usually they're there, and they participate in the State processes, and mauka to makai connectivity ensures aquifer recharge. So I'm supportive of that, the Department of Water Supply testifying in support of mauka to makai connectivity or stream restoration.

CHAIR SINENCI: Okay. Eva, is this something that the Department can support?

MS. BLUMENSTEIN: Well, I will defer to Director in terms of the policy, but to me, it makes sense to, you know, not generalize stream restoration. I refer and rely on CWRM and their hydrologic assessment on the stream-by-stream basis where, you know, I've seen them both recommending mauka to makai connectivity. Where certain streams that are intermittent where there is no benefit to that, they have not recommended mauka to makai. So in my opinion, I think that's, you know, something that's done through the IFS and it should be looked at on a case-by-case basis rather than generalized. But I'd refer to the policy through the Director.

CHAIR SINENCI: Director.

MR. PEARSON: Yeah, Eva's correct. If you have intermittent streams, of course, you're not going to have mauka to makai connectivity. Also, CWRM State Agency, regardless of what we say, they're going to trump the County of Maui, so they're going to be the ones that are driving the bus for evaluating the stream health and the IIFS. And, of course, IIFS, one of the main reasons behind this is to ensure mauka to makai connectivity. So it's kind of a no-brainer that Department of Water Supply would support this, especially since that's where I was before and I support it and pushed for, you know, IIFS. So there's no issues here. I don't know if you have a written policy, but again, I don't think it matters much if the Water Commission is going to trump us anyway, and they're the ones in charge of the process.

CHAIR SINENCI: Okay. Mahalo, Director. So we could add the Department as part of the

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

agencies as well. Well, let me go back...Ms. Chen, is there any...could we get a comment on court or Amicus briefs?

MS. CHEN: Thanks, Chair. So I agree with Councilmember Rawlins-Fernandez that the first part of the provision number 4...oh, sorry...yeah, that provision number four is confusing. Are we specifically talking about 5 right now, or both 4 and 5?

CHAIR SINENCI: Four.

MS. CHEN: Okay. So I don't know. I guess I would ask for clarification on the intent behind this before commenting. I'm not really clear on what the purpose of this provision is.

CHAIR SINENCI: Just to provide testimony in support of stream restoration at State agencies, which the Director is open to. I guess my question to you was the...is there any problems with what Chair Lee brought up, court or Amicus briefs as part of litigation?

MS. CHEN: Okay. So with that clarification...thank you for that. I think, you know, we, as the County, you know, have this public trust obligation. So I don't really see, insofar as this is part and parcel of that public trust obligation, I don't see a problem there. So I think it's okay, you know, with the understanding that this is part of our existing obligation.

CHAIR SINENCI: Okay. Thank you, Ms. Chen. Members, are you guys open to deleting court briefs and just keeping the first part in? Well, Member Paltin talked about connectivity, but Director Pearson said that some of them are interim streams that are not always running. So support stream restoration --

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

CHAIR SINENCI: -- to State agencies without the court briefs? Comments?

COUNCILMEMBER PALTIN: Maybe if we say for perennial streams?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Streams...Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm going to put it...I tried to wordsmith something that I think is the intent. Okay, I put it in the chat. So it's...there's the intermittent and...Kawela Stream is intermittent on Moloka'i. So when applicable, advocate for stream...oh, sorry...for mauka to makai connectivity when testifying on behalf of the County. And I don't know what the end use of kalo lands is, so I just left it there. That's my first attempt at trying to strengthen or clarify the language that was proposed by Aha Moku. So Chair, if you understand what the last part is for the kalo lands...so is this...is this saying that just the stream restoration when kalo lands are involved, or for all streams?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: I know kalo cultivation was one of their priorities throughout our series of meetings, that they make...that we make sure that there was enough water in the streams for kalo cultivation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, I will try again.

CHAIR SINENCI: I would...I support having it use of kalo lands, maybe just a friendly amendment to State agencies. You have State...State agencies.

COUNCILMEMBER LEE: Chair?

CHAIR SINENCI: Chair Lee.

COUNCILMEMBER LEE: Okay. Thank you for, you know, trying to find a compromise. I still believe that this statement is too general, and our votes really should apply on a case-by-case basis. So the only way I could support this--and I understand you wouldn't accept this--but I would support, recommend support of stream restoration, et cetera, as opposed to a mandate of support. Thank you.

CHAIR SINENCI: Thank you. Thank you, Chair Lee. And we were going to remove court briefs just so that we don't get into any legal parameters. Okay. So we did have a friendly to put recommend support. Any other input from the Members?

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Oh, Member King, then Member Paltin. Sorry I can't see everybody with the...

COUNCILMEMBER KING: Yeah, it's hard. We also don't have the language. I appreciate the language that Member Rawlins-Fernandez gave us, but we don't see you so it's hard to comment about it, trying to keep all that language straight in my head. But I do agree with Chair Lee that it's hard to mandate what people have to say in testimony. And since it says all County testimony, that seems to refer to anybody in the County. And...including Councilmembers who may or may not have been elected to address this particular issue. So is there...are you...are you proposing to put into here something that directs the Department to testify?

CHAIR SINENCI: Yeah. And Member King, we have all the different agencies . . . *(inaudible)* . . .

COUNCILMEMBER KING: No, but it says to State agencies, but it...where it says support stream restoration in all County testimony, that's everybody in the County, right? So that's a really broad statement.

CHAIR SINENCI: Yeah. So did you want to delete...did you have a recommendation?

COUNCILMEMBER KING: Well, I would say in, you know, especially given the fact that the Director doesn't see a problem, just saying in all Department testimony or in all

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

Department of Water Supply testimony.

CHAIR SINENCI: Okay, and then remove some of the other departments that are listed in the agency column?

COUNCILMEMBER KING: Yeah, my...is that the far column on the right?

CHAIR SINENCI: Yes.

COUNCILMEMBER KING: CWRM, Aha Moku, Community Grass Roots...Grass Roots is not really an agency.

CHAIR SINENCI: Community...

COUNCILMEMBER KING: It looks like CWRM, Aha Moku, and Maui County. What does community mean? There's a capitalized. Is that Aha Moku community? Or is it community...community's not really an agency.

CHAIR SINENCI: Community Grass Roots.

COUNCILMEMBER KING: Oh, okay. So if this says all...if it were to say all DWS testimony to State agencies...the only State agency that's listed here, I think, is CWRM. So is that...is that what you're saying, that all testimony to CWRM, or is it...is there some other kind of agencies they might be testifying to?

CHAIR SINENCI: At this point, just the Department had agreed to support stream restoration. So we could put instead of...delete Maui County, put the Department...Maui County Department of Water Supply.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Yeah.

COUNCILMEMBER KING: Yeah, just Part 2 put stream restoration and all Maui County DWS testimony to CWRM, if that's who you're testifying to.

CHAIR SINENCI: Okay. So support stream restoration in testimony to CWRM.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Oh, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: All right. Okay, so it sounds like, since you want the Department of Water Supply to testify, that it's...we should be more specific in support because we're asking them to advocate.

CHAIR SINENCI: Right. And that was, I believe, one of the comments for discussion from

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

Member Paltin --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR SINENCI: -- in Appendix A.

COUNCILMEMBER RAWLINS-FERNANDEZ: So when applicable, so meaning when it's not an intermittent stream, the Department of Water Supply will advocate for mauka to makai stream connectivity and increase kalo cultivation when testifying before State agencies. And I wouldn't limit it to CWRM, just in case, you know, BLNR takes up something.

CHAIR SINENCI: Good point. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: And I put it in the chat, and I can read it again if you want.

CHAIR SINENCI: Oh, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I love the wording. I was wondering if we could do including, but not limited to, increased kalo cultivation. As we heard from Mr. Terrill James Kaneali'i about hi'uwai, and then there's also like the 'o'opu and the hihiiwai and things like that. Aquatic stream life, as well as the muliwai that are also important. But I support naming kalo cultivation specifically because that's a high priority. But maybe we could do including, but not limited to. And I just really want to support this because before Mr. Ayron Strauch, if that's how you say his name correctly, joined the State, there was like no movement on Interim Instream Flow Standards for West Maui for like generations. And so many people had spoken to that. And yet, because it never was done...and when Peter Martin was developing Launiupoko and that whole area, they told him, you can't divert all the water from the stream, and he just did it anyway. And then when the Interim Instream Flow Standards came through, now we're in the position that we're in because most of this is based on the '70...the constitution from the '70s, but it's only now getting implemented. And so that's why I believe the Aha Moku wants the County to support them in asking for CWRM and the State agencies to do the right thing because it's been, like, generations until this day when Interim Instream Flow Standards are being implemented. And even though they've been set, they're not always being enforced. And so it's just that the County be a partner in advocating for the public trust resource. And like Mr. Pearson said, the State's going to do what they're going to do anyway, and so what harm does it do for the County to advocate for mauka to makai connectivity, and for prioritizing kalo cultivation and other uses? Because it's been so long that we haven't had any following of the State Constitution and treating of water as a public trust. So I think this is very important for us to do at this time. Thank you, Chair.

CHAIR SINENCI: Mahalo, Member Paltin. Director Pearson.

MR. PEARSON: Yeah, Chair. Yeah, I hope this doesn't sound like I'm talking out of two sides of my mouth, but what I said earlier, I completely stand by. But if we're...you know,

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

we're talking about stream restorations in certain specific streams or specific issues where there's Department of Water Supply or County interest, I don't think I...we...I feel comfortable making a blanket statement. There may be a middle road, so to speak, that we can still support stream restoration, but we may need to consider some of the Department of Water Supply's interests when looking at certain streams. I'm still not going to back off on saying I support mauka to makai and I support stream restoration, but each stream and each issue is going to be different, and I don't want to tie myself down by saying, oh, you supported it, so you can just sit down, we're done with you. You know, there may be intricacies to each one of these issues. And of course, I also have a Mayor and an Administration that also directs me, so they may have direction that might be even a little bit contrary to the Department of Water Supply.

CHAIR SINENCI: Okay, thank you. Mahalo, Director Pearson.

COUNCILMEMBER LEE: Mr. Chair?

CHAIR SINENCI: Oh. Sorry, I can't see everybody. Chair Lee, and then Member Paltin.

COUNCILMEMBER LEE: Thank you. Just wanted to say that I can support Vice-Chair's proposal, her proposed amendment. Thank you.

CHAIR SINENCI: Thank you, Chair Lee. Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I really hope we're not talking about Kanahā and Kahoma, but I think this is kind of what Aha Moku is getting to. If water is a public trust, it's a public trust regardless of the politics of the issue. And if we support mauka to makai connectivity, we support it all the time, whether it's private diverters or if the County is the diverter. It's important to have mauka to makai connectivity for groundwater recharge, for aquatic stream life, for the fisheries. So I...if this is a document we're voting on, I'm voting for Member Rawlins-Fernandez's language if we can say including, but not limited to. Thank you.

CHAIR SINENCI: Mahalo, Member Paltin. I think the connectivity...stream connectivity will address the riparian species that require connectivity from mauka to makai. So it does imply the marine species. Any other comments before we ask for consensus to Member Rawlins-Fernandez's language?

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King.

COUNCILMEMBER KING: Yeah, just wanted to clarify, this is the language that she put in chat that says attempt two?

CHAIR SINENCI: Correct.

COUNCILMEMBER KING: Okay. I can support that.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: I can't see Member Molina. Okay.

COUNCILMEMBER KING: Maybe if you could take down the share for a minute.

COUNCILMEMBER MOLINA: Yeah, Chair. I'm fine with the language, Chair.

CHAIR SINENCI: Okay, everybody, consensus with Member Rawlins-Fernandez's attempt number two, when applicable, the Department of Water Supply will advocate for mauka to makai stream connectivity and increase kalo cultivation when testifying before State agencies. And I think when applicable addresses some of the Director's comments. Consensus?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: And then for...Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And then in the agencies from Maui County to Department of Water Supply, DWS.

CHAIR SINENCI: Yeah. Okay, Staff, can we also change, in agencies, Maui County DWS?

COUNCILMEMBER MOLINA: Chair?

CHAIR SINENCI: Member Molina.

COUNCILMEMBER MOLINA: Yeah, just a thought, should we also include Federal maybe? I don't know what...if we should even throw that in. I don't know if there's any connection to this language, but just a thought. Maybe Vice-Chair Rawlins-Fernandez can comment on that.

CHAIR SINENCI: Member Rawlins-Fernandez, to Federal agencies?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

COUNCILMEMBER MOLINA: Or Director Pearson.

COUNCILMEMBER RAWLINS-FERNANDEZ: If we want to include Federal agencies, I don't have any opposition to that. I...the State agencies is our...who has jurisdiction over water but, you know, in the off chance that there's a Federal agency that is dealing with water, then it'll be included here.

COUNCILMEMBER MOLINA: Okay. All right. Just a thought.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Members, friendly amendment to have State and Federal agencies?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR SINENCI: Okay, consensus?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Thank you, Members. Okay, moving right along. There is a...their number 5, per the Aha Moku, to add...this one's very similar, the County shall advocate for public water trust uses, including kuleana use, cultural use, stream restoration, when providing testimony to State agencies or court briefs in addition to supporting domestic uses. Again, if it's...we can take out the court briefs and add State and Federal agencies. And that's some changes in line with the first one we did. Are you guys amenable to that, to keep with the same language?

COUNCILMEMBER KING: Chair, can we get...can we just ask the Director . . .his input.

MS. BLUMENSTEIN: The Director left the call.

CHAIR SINENCI: Eva.

MS. BLUMENSTEIN: I can assist but, I'm going to have to kind of defer to Director. Well, the first portion of that strategy was already there, right, enable/assist providing for --

CHAIR SINENCI: Yes.

MS. BLUMENSTEIN: -- native Hawaiian water rights, et cetera. You know, with the thought that that would be through a consultation process and a participation with Aha Moku and other stakeholders. So because Director doesn't have, you know, a problem with the testimonies on the number 4, I would infer that he doesn't have an issue with this either.

CHAIR SINENCI: Okay. Thank you, Ms. Blumenstein. Members, open to deleting court briefs, adding State and Federal agencies, and adding DWS after Maui County in the agencies column.

COUNCILMEMBER KING: But Chair, are we...this is Kelly.

CHAIR SINENCI: Go ahead, Member King.

COUNCILMEMBER KING: Okay. So we had...are we using the same framework as the previous one? When applicable, the Department of Water Supply will advocate for public water trust uses, including kuleana, cultural uses, stream restoration, when providing testimony to State and Federal agencies? And then, in addition to supporting domestic uses?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Yeah. It sounds like it's the same attempt, yeah?

COUNCILMEMBER KING: Yeah. That's a little disjointed. Maybe in addition to supporting this domestic use should be after stream restoration.

CHAIR SINENCI: Okay. Would it be redundant if we did it again in the number 5?

COUNCILMEMBER KING: Well, the first one just talks about testimony.

CHAIR SINENCI: And this one is more advocate.

COUNCILMEMBER KING: Advocate. This one is advocate as well. This one it says advocate. It just adds more things into it.

CHAIR SINENCI: Eva, did you have a comment?

MS. BLUMENSTEIN: Yes. I just want to note, I mean, I really try to avoid the word shall through the plan because it's a guidance document. If it was just advocate for public water trust uses, et cetera, that would just be consistent with the language throughout the plan.

COUNCILMEMBER KING: Is that different from the use of the word will?

MS. BLUMENSTEIN: I think so. The shall instead of will or should.

CHAIR SINENCI: What wording were you open to?

MS. BLUMENSTEIN: Oh, just skip the first few words. So it would just be advocate for public water trust uses, et cetera. And then those that are the lead agency assigned to that are stated in the last column.

CHAIR SINENCI: Members, amenable to taking out the County shall, just capitalize "A" in advocate for public water trust uses?

COUNCILMEMBER LEE: Yeah. Mr. Chair?

CHAIR SINENCI: Chair Lee.

COUNCILMEMBER LEE: Okay. You know, the first round was more acceptable because of the words if applicable, yeah. Now you're actually telling the Mayor what to do, and Corporation Counsel what to do, before a case comes up. So that's what I was getting at in the beginning when we were telling the Water Department what they must do. Because we have...I do not believe we have the right to do that. I may be wrong, but I'd certainly know we cannot tell the Mayor what to do. So we have to be careful how we use the words. So advocate...advocate is...to me is fine.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. Thank you, Chair Lee. Members...Member King was asking to use the similar language from number 4. Did we want to just keep what's in number 5 just so that there is some difference, this to include advocate for public water trust users, including kuleana use, cultural usage, stream restoration, and providing testimony to Federal and State agencies in addition to supporting domestic uses. Consensus on that language?

COUNCILMEMBER KING: Chair?

COUNCILMEMBER LEE: Starting with advocate?

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Yes, starting with advocate.

COUNCILMEMBER LEE: Oh, okay.

CHAIR SINENCI: And deleting court briefs, and adding State and Federal agencies.

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER KING: Yeah, that's good.

CHAIR SINENCI: Yeah. Consensus?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Thank you. Okay, moving right along. Okay, so these are, again, these are the Appendix 10 ones that we had got consensus on. Meetings...looks like it goes down to page 5, next Aha Moku...next item, the blue colored Aha Moku item...sorry, I don't...I just have page 5 on mine...for your consideration, protect dry native forests and wetlands, sustainable resources, minimize adverse environmental impacts, provide funding for management. This...Members, this discussion came up during those Aha Moku groups in West Maui, as well as South Maui, because of their dry native forests. So we added...we wanted to include the dry native forests and wetlands. This was the discussion. This came up during those discussions.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Of course I support protecting our dry native forests and wetlands. The Department itself doesn't do that work. The Department provides grants for community organizations that do that work. So we would just need to make...somehow work with the community, whatever organization would be interested in doing that work, because the Department doesn't do that work itself.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. Would this pertain to some of the grant funding? You mentioned grant funding that the Department puts out.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. So for, you know, the watersheds? Watershed restoration and protection grants.

CHAIR SINENCI: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So the Department doesn't do watershed protection and restoration. It's the organizations that get grants from our Department to do that work. But they don't only get funds through the County, they also get funds through the State, private, et cetera. So as long as that's kind of clear that if we don't have an organization that's going to do the work, the Department itself isn't going to be doing it.

COUNCILMEMBER LEE: It's in the third column.

CHAIR SINENCI: Provide funding for management. Or we could implement --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

CHAIR SINENCI: -- to...

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR SINENCI: Yeah. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: . . . *(inaudible)* . . .

CHAIR SINENCI: Is that...does that cover your concern, Member Rawlins-Fernandez? Grant fund...should we put grant funding for management...put the word grant?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I mean, you don't need to. It's just --

CHAIR SINENCI: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- I was just focused on the first column and didn't look at the third column. So if that's clear to everyone that the Department wouldn't be doing it...that work, and they would just be providing funds for that work, then that's...I think that's clear.

CHAIR SINENCI: Ms. Blumenstein.

MS. BLUMENSTEIN: Yeah. Maybe...I saw that throughout some of these changes from Appendix 10 that here...that column for estimated costs has other data in it. So you'd probably want to move that language to the first column to just keep the table

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

consistent. And of course, I agree with Vice-Chair Rawlins-Fernandez that the Department also support these things, but it's not the work we do or the water right funded grants that we provide.

CHAIR SINENCI: Okay. So Eva, you wanted to add the data on program cost...the column?

MS. BLUMENSTEIN: Well, the column, the third...it's actually the...yeah, the third column in Table 3, estimated costs. It has the...in...for this one, it has provide funding for management development and adopt ordinances. That statement should probably be moved to under protect dry native forests and wetlands as part of the strategy. That's not the estimated cost.

CHAIR SINENCI: Yeah, it's in there now for protect dry native forests. You wanted to include it in the next one? I'm sorry, I didn't get what you said.

MS. BLUMENSTEIN: No, no. I'm saying that column that's...the column is called estimated costs as the strategy and the planning objectives and estimated cost. Right now the statement there--provide funding for management, develop and adopt ordinances protect these areas--that statement should probably be moved to the strategy itself, so under protect dry native forests and wetlands.

CHAIR SINENCI: Oh, okay.

MS. BLUMENSTEIN: Be consistent throughout Table 13-1.

CHAIR SINENCI: All right. Okay. Okay, Staff, can we go ahead and just include it in the first column?

MS. SIEGEL: Sorry. One moment, Chair.

CHAIR SINENCI: Thank you.

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King.

COUNCILMEMBER KING: Just while we're waiting, I just wanted to mention to Eva that we're...you know, that we're...the CARE Committee is working on an ordinance to create wetland restoration...preservation and restoration programs. So is that something you would be able to give input on? We haven't really gotten input from DWS on this. Or are you just strictly on the funding side?

MS. BLUMENSTEIN: Well, I mean, it's indirect, yeah. Because even though, of course, the water rate funded work is for the critical watersheds and with nexus of providing drinking water supply, right? But that indirectly benefits wetlands, anything makai of that. So I'd be happy to provide input.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER KING: Okay, thank you. I didn't think about reaching out to you so I will.

CHAIR SINENCI: Okay, Members, consensus on the change?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Great. Thank you. Moving right along, the next one, provide training for all Maui Department of Water Supply employees on traditional Hawaiian resource management, including 'ahupua'a--there's an extra "H" there--resource management strategies, importance of ecosystem health, ability to create additional water through resource management, nearshore and stream ecosystems, public trust responsibilities, kanawai policies, and connection between water and Hawaiian culture and spirituality...and then Aha Moku included mo'o. So more like cultural...the cultural aspect of water was the Aha Moku's intent by adding this additional strategy. Any comments? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Question for Eva. Do the employees go to the training that we, the boards and commissioners, receive from OHA, the huliaus?

MS. BLUMENSTEIN: Yeah, I can only speak for...not throughout the Department. I mean, there's cashiers and meter readers and, you know, whatnot. I...within my Division, planners have some training in that. I really can't speak for other divisions. I don't know.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Eva. So Chair, this says all Water Supply employees. As Eva kind of pointed out, there's employees that don't make decisions or plans or policy that would not need to attend these trainings. We need to amend that.

CHAIR SINENCI: Yes. And again, this was the request of the Aha Moku O Maui Council. So they wanted to have all of the...I guess just to understand water development from a cultural perspective. No, we don't have to...I mean, it would be best if all of them could come. I know during...Director Pearson has taken some of my Staff members along on some of the field trips up to some of the intakes and the...the water infrastructure both up in 'Iao, Waihe'e. We went on our own to Kanahā in West Maui. But all through our visitations, you know, just practicing....but we did practice protocols, cultural protocols when visiting these sacred sites. So I think that's...that was the intention, that Aha Moku wanted to...or the Aha Moku Council's water resources, they have a specific reverence for our water resources, spirituality of water, as well as the...I guess, the guardians or the 'aumakua, the wai 'aumakua as it mentions in here. But any other...Members, comments?

COUNCILMEMBER LEE: Chair? Chair?

CHAIR SINENCI: Go ahead, Chair Lee.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER LEE: Okay. Can we put the word pertinent employees? Because there are dozens that do clerical work, they answer the phone, they do the bills, they do the invoices, they do...a lot of them don't even get into the field or have anything to do with the field. So I don't think those people would...we could require them in the first place because of union issues. And then again, as the Vice-Chair said, not everybody's involved with policymaking or planning.

CHAIR SINENCI: Okay. So we won't have consensus on all MDWS employees. Are you open to...

COUNCILMEMBER LEE: All pertinent. All pertinent.

CHAIR SINENCI: All pertinent, or just take the word all out, provide training for MDS [sic]...

COUNCILMEMBER LEE: Okay. Yes.

CHAIR SINENCI: Members, are you guys consensus on that? Consensus that we take the word all --

COUNCILMEMBER LEE: Yeah.

CHAIR SINENCI: -- out?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay great. Thank you. And then, Staff...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Yeah, we're not going to put...go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, yeah. Exactly what you were going to say. We're just deleting all and not putting pertinent, Ms. Siegel.

CHAIR SINENCI: And delete the second "H" in 'ahapua'a.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, she did. Oh, and then...sorry to backtrack, but in the previous column where we removed the provide funding, we would need to put in something there. Develop and adopt or...I don't know. Need data on program cost. We can come back to that.

CHAIR SINENCI: Okay. All right.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry.

CHAIR SINENCI: We got consensus on that one. Moving on to the next one...

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, Chair?

CHAIR SINENCI: Oh, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Before we move on to the next one, in the previous one, protect dry native forests and wetlands --

CHAIR SINENCI: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- in the third column, we removed that language and put it into the first column, or the second column.

CHAIR SINENCI: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so it...all that language has been removed and so now there's nothing there. I think to be consistent, we would need to put something there in that...in this row it says need data on program costs, so --

CHAIR SINENCI: You wanted --

COUNCILMEMBER RAWLINS-FERNANDEZ: -- that can...

CHAIR SINENCI: -- to go ahead and add need data on program cost?

COUNCILMEMBER RAWLINS-FERNANDEZ: I mean, that wouldn't be the ideal, but at least it would have something in there.

CHAIR SINENCI: Okay. Members, you open to including...deleting what we moved, provide funding and add need data on program costs? Consensus on adding that language in the previous column?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay. Thank you, Staff. Okay. Moving right along, the next one we had from Aha Moku, keep stormwater drainage same area for aquifer recharge. So Members, this one from the Aha Moku, they felt that sometimes it is about storage when taking water out of certain areas and storing it in another area does affect the aquifer recharge from the area where the water is coming from. So this one says to keep stormwater drainage in the same area...I take that back, it's more stormwater drainage in same area for aquifer recharge.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a question for Ms. Blumenstein. Do we take the drain...water drainage to a different aquifer area?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

No?

MS. BLUMENSTEIN: Stormwater management is under Department of Public Works, so the Department of Water Supply doesn't manage stormwater capture. Generally, a retention basin for new subdivisions, et cetera, are generally regional, they're not transported out. So I'm thinking more that's talking about total flow and instream diversions, which is kind of stormwater runoff that's added to the ditch that may be transported out to another area, but that's not really for aquifer recharge, it's for irrigation. So it's a little different. So maybe leave it...I don't think DWS should be the lead agency for this proposed strategy. And same thing for estimated costs column, that language, develop, adopt an ordinance should probably go under the strategy language itself.

CHAIR SINENCI: Mahalo, Eva. Members, is that something...I would be open to also, when possible, stormwater drainage in same area for aquifer recharge. And Eva said delete MDWS, move develop and adopt an ordinance to the first column.

COUNCILMEMBER LEE: Sounds good.

CHAIR SINENCI: Consensus?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Next, prohibit cementing of wetland areas. This...Members, this discussion came up...so they...(audio interference) cemented over streambeds. So this was something that they wanted to...oftentimes those streams or there's...those springs are still running mauka to makai after cementing over some of these areas for storm drainage. So this was something that they...Aha Moku, prohibit cementing of wetland areas. I believe it included streambeds. Comments on this one?

COUNCILMEMBER LEE: Chair? Chair?

CHAIR SINENCI: Chair Lee.

COUNCILMEMBER LEE: I can see cementing over wetland areas, but what if you build a bridge, you know, where you have cement columns in the wetland...I don't know. There may be a time when that might be necessary. I...I just thought is...that might be an exception.

CHAIR SINENCI: Okay. So Chair Lee, proposing prohibit cementing over wetland areas.

COUNCILMEMBER LEE: No --

CHAIR SINENCI: Possible...

COUNCILMEMBER LEE: -- not really. I meant to the extent possible, or something like that, prohibit cementing wetland areas. But if you need a bridge or some kind of structure, you may have to do...you know, use cement in certain areas.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. And...

COUNCILMEMBER LEE: Maybe Eva...maybe Eva can give us some feedback. Maybe what I'm saying never happens. Eva?

MS. BLUMENSTEIN: Yeah, sorry, I'm not much help. I'm not familiar with the situation. I mean, there's cementing of stream channels, you know, that the Army Corps Engineers did it in the Wailuku River, but I don't know about cementing over wetlands. I'm not familiar with it, it's not under the Department's purview. I don't know. I mean, in general, the...in terms of how it relates to water supply allocation or conservation and whatnot, that may be a strategy that, you know, makes sense, that's needed, but not as part of the plan. I'm not sure how it relates, really.

CHAIR SINENCI: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. How about instead of cementing, it sounds like they just don't want the infilling of wetlands. So regardless of whether it's cement or, you know, other material that would basically change the characteristic of that wetlands and make it into something else. So I think infilling would address Chair Lee's concern in case columns would need to go in. I don't think bridges would be considered infilling of the wetland areas. And then I think water...Department of Water Supply wouldn't be a lead agency here either. And then the develop and adopt ordinance would go into the second column.

CHAIR SINENCI: Oh, yeah. Second column. Okay...

COUNCILMEMBER RAWLINS-FERNANDEZ: But that's just my suggestion as far as language. I'm not an expert either.

CHAIR SINENCI: Members, any comments or consensus on that language prohibit (*audio interference*) consensus?

COUNCILMEMBER VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Thank you. And...yeah, Members, I don't know how many of you have been to Kahului lately, but it does look like the Kanahā is...looks like it's slowly drying up, and there's hardly any water in that water fowl wetland area. Okay, moving right along. Aha Moku, establish and maintain regular communication with Aha Moku Councils to assess the effect of water development, water development policies on Kānaka Maoli rights and Hawaiian culture practices, actively seek input from those practicing their culture and those with historical knowledge, create an advisory group to address these policies and provide accountability. And throughout the process, this was Aha Moku Councils that didn't feel that they...they were informed about any of the decisions that were being made. And of course, just not having their voices heard when it comes to cultural practices within their districts.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER LEE: Consensus.

CHAIR SINENCI: Consensus?

COUNCILMEMBER MOLINA: Consensus.

VICE-CHAIR JOHNSON: Chair, I have a quick question.

CHAIR SINENCI: Okay.

VICE-CHAIR JOHNSON: I beg your pardon.

CHAIR SINENCI: Member Johnson.

VICE-CHAIR JOHNSON: I'm sorry, I just have a quick question for this one. So this is for the Department, and I don't know if the Director or...is not here, but that's okay. So we have a LWAC, Lānaʻi Water Advisory Committee. And because it was made by resolution, it...no one really goes to it. But if it was by ordinance, it would have more bite. So my question to the Department is, if we were to say, create an advisory group by ordinance, would that...was that...is that...is that something you would entertain?

MS. BLUMENSTEIN: Yeah, I would like to refer...defer to Director, but they...the advisory committee for Lānaʻi was established to update the Water Use Development Plan, so it was sort of not dissolved, but the purpose for that was really consultation during the development of the plan. So in terms of having more of like a permanent advisory group, I think, has to be really clear what the purpose is. The plan...I envision Lānaʻi, Maui Island, and Molokaʻi plans to be very different looking in the next update. Not as enormous, . . . *(inaudible)*. . . data, inventory, and issues have been addressed very comprehensively. So yeah, I don't really want to say whether that would be...you know, how the Administration or the Director would feel about having a permanent entity. It wasn't something that was proposed, like a selected strategy in the plan. However, in a consultation with the Native Hawaiian community and through the Aha Moku, it's a selected strategy, and it was explained in Chapter 10 under the . . . *(inaudible)*. . . analysis, so that's something we would like to build on, initiating those meetings. And the compartment analysis was kind of starting point. We did propose to build on that process, adopting the Aha Moku rules that are already in place. So that's something I know...we already said that that's something that should be done.

VICE-CHAIR JOHNSON: Okay, so there's bite to it. You...okay, I got you. All right. Thank you, that's all I wanted to add to that. Thank you.

CHAIR SINENCI: Yeah. Member Paltin, are you consenting [*sic*] on by ordinance? Okay, so add the language establish by ordinance regular communications? Consensus, Members? Adding that language, established by ordinance.

COUNCILMEMBER LEE: How big of an advisory group would this be, if it covers every section, every district on Maui?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: It could include the Aha Moku groups, but they have an extensive lineal descendency that we can choose or pick from. Maybe have a representative from each district or...if the communication is just for certain districts, we could look to not just Aha Moku, other cultural groups as well. Ms. Blumenstein.

MS. BLUMENSTEIN: Yeah, and I don't know about how acceptable that...the proposed format of it was, but the thought was that when there was a regional issue that the Moku for...that regional Moku would be the one who's consulted, and Aha Moku would appoint their...it was be the water representative or the water expert, sort of like a formalized process. So it wouldn't be like an islandwide advisory group. It would be proposed like a regional consultation for regional issues.

CHAIR SINENCI: Chair Lee, so it would just be the district...we'll just have a district representative. We could...

COUNCILMEMBER LEE: Okay, so you're talking about one advisory group comprised of every district representative...

CHAIR SINENCI: We could add...

COUNCILMEMBER LEE: How many districts are there? How many representatives would be on this advisory group?

CHAIR SINENCI: Aha Moku, we have 12.

COUNCILMEMBER LEE: Twelve on Maui?

CHAIR SINENCI: Yeah.

COUNCILMEMBER LEE: Okay.

CHAIR SINENCI: And we could add Aha Moku in the second to the last column as the group to access. This is their proposal. Members, are you open to establish by ordinance regular communications? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I don't think that's where Member Johnson recommended putting by ordinance.

CHAIR SINENCI: Oh, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I think he was saying in creating an advisory group, instead of by resolution, it would be by ordinance. I don't know how we would establish by ordinance communication. But if someone has an idea about how we would set a policy to maintain regular communication, I'm open to hearing it. But yeah, the by ordinance, I believe, belonged where the advisory group is. So to by ordinance, create an advisory group. What I'm hearing from this proposal is the need to be included. And

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

a lot of those who, you know, practice our culture and participate on the Aha Moku Councils, these are all like volunteer positions. And so I'm wondering if this doesn't quite capture what it is that they're trying to achieve. This isn't the actual strategy. And I'm wondering if perhaps it's like, you know, creating a position as a paid position that would actively work with these groups so that someone would be doing the work who's not just volunteer. Because that work oftentimes...being part of these groups myself, you know, it's a lot of work for someone to do voluntarily. And a lot of times, these groups, they fizzle out. And then it takes work again to, you know, get them activated again and for people to remain activated. I'm not opposed to this, I just...I'm just...I'm trying to hear the words and relate to the problem that this intends to solve. Mahalo, Chair.

CHAIR SINENCI: Okay. At the current state, do we have consensus to establish and maintain regular communication? Do we have consensus at its current state without ordinance?

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King.

COUNCILMEMBER KING: Yeah, just to follow up on Member Rawlins-Fernandez, if we were going to create by ordinance, it would be in the third column, and then you would...you know, that's the strategy for affecting the first column. If you look at prohibitings and the one that we are prohibit the infill of wetlands and the strategy was develop and adopt an ordinance, and the responsible parties were the Water Department and the Council. So if that's what...if that was the intent of Member Johnson's comment, then we would put into the third column, you know, develop and adopt an ordinance, and then you would add the Council to the fourth column. Is that what you were suggesting, Member Johnson, to make it more official? Because I agree with you, it's kind of a difference between having a volunteer committee, like this community advisory committee that I created in Kihei, and then now having it official, which we created by ordinance. So is that what you were talking about?

VICE-CHAIR JOHNSON: Chair, if I may?

CHAIR SINENCI: Sure.

VICE-CHAIR JOHNSON: Yes. Thank you. Exactly right. What you and Councilmember Keani Rawlins-Fernandez were saying is that...that was my intent, is to make these have a little more bite. So I think what...we have it...we have it up there by ordinance, but if you want to put it in a different column, I don't know. If that's what you think would make it work. I'm just trying to...I think it's...where it is now is fine, but if there's a different column that would give it that bite, that's fine with me too.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Member Rawlins-Fernandez.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I believe the fourth column is the cost column, and that's why we've been moving the language that was in that column into the first...or the second column. So the first column is where it says Aha Moku, and the second column is strategy. And then the fourth column, where it says N/A right now, is the cost column.

COUNCILMEMBER KING: Okay. Did we move all the develop and adopt an ordinance over to the third column for all of these other ones too?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, we moved the develop and adopt an ordinance into the second column from the fourth column.

COUNCILMEMBER KING: Into the second column.

CHAIR SINENCI: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, the second. The Aha Moku is the first column, and then the add establish regular communications to the second column.

COUNCILMEMBER KING: Okay. So develop and adopt an ordinance would be in the second column?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR SINENCI: Yeah, underneath...after policies that provide accountability.

COUNCILMEMBER KING: Oh, okay.

CHAIR SINENCI: Yeah.

COUNCILMEMBER KING: I think that's what...that's what...that would be the proper way if you wanted to put the...institutionalize it. And then we would add the Council as one of the agencies because the Council has to create the ordinance.

CHAIR SINENCI: Consensus on that language, Members?

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Mahalo. Okay, we're...we just got a couple...I believe we have a couple more. We can continue at our last meeting, so we'll just...Members, I want to be cognizant of your time, so we'll just go to 4:30. And then at our September 28 meeting, we can...it'll be just a couple because this isn't...we did most of the work in Appendix 10, so it should be quick for our September 28 meeting. Okay, so we'll just keep going until 4:30. Okay, the next one from the Aha Moku, seek generational knowledge along with scientific data. Of course, they felt that generational knowledge of place from lineal descendants was just as important as the scientific data, so we had including this one of the strategies. Also, could be part of the previous one, yeah, that

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

we're creating by ordinance. So maybe add, develop and adopt an ordinance under this one as well, then we could include it as part of the previous one. Members, comments?

COUNCILMEMBER KING: Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: Member King?

COUNCILMEMBER KING: I'm not sure what the ordinance would be. Are we talking about creating another body?

CHAIR SINENCI: I don't think so. This one...it seems like this one would be kind of covered on the previous one.

COUNCILMEMBER KING: Yeah.

CHAIR SINENCI: Actively seek input from those practicing their culture historical knowledge. So this is kind of a duplicate of the previous one.

COUNCILMEMBER KING: Can we just add it into...you know, because it says actively seek input from those, so maybe we could just add actively seek input and generational knowledge from those practicing the culture and those with historical knowledge. It seems like the same thing.

CHAIR SINENCI: Yeah. Members, consensus on adding actively seek generational knowledge.

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Moving right along. The next one...thank you, Staff.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. For generational knowledge, there could be different generational knowledge, some may be conflicting. So in seeking generational knowledge if, you know, one kūpuna says one thing, and then another kūpuna says another thing, do we include both? Just...you know, we're not a monoculture.

CHAIR SINENCI: I remember, yeah, two kūpunas fighting over the...where the piko of one child should be and buried in which district. So we could...we'll leave that up to...or we could take a consensus of the kūpuna that is being asked to provide that generational...did you have any suggestions, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I was just thinking that if there's conflicting generational knowledge, that they would both be included and not...you know, because I can imagine if the Department or whoever is not, you know, ma'a to --

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- our culture and wouldn't want to, you know, be the one to make the decision on which kūpuna to believe or to take the information from and which one to exclude. So I guess I would just be inclusive of all generational.

CHAIR SINENCI: So you want to add actively seek all generational knowledge?

COUNCILMEMBER MOLINA: Yeah. Yeah, I like that better, Chair. I think that's a little bit more specific.

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, all also implies like all, not just . . . *(inaudible)* . . .

CHAIR SINENCI: Everyone's.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. So if it all...is it like wa kahiko generation?

CHAIR SINENCI: Ae. We could somewhere define generational knowledge in another area of the...or underneath put an asterisk, and we can come up with a definition.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, do you want to put that with the 'ike kūpuna then, and then we can define it somewhere else?

CHAIR SINENCI: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: 'Ike kūpuna, 'ike Hawai'i.

CHAIR SINENCI: Okay, so actively seek 'ike kūpuna. And then we'll put an asterisk, then we can define it at the...at the end of the table.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR SINENCI: Yeah?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR SINENCI: . . . *(inaudible)* . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: And explain.

CHAIR SINENCI: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: That includes . . . *(inaudible)* . . .

CHAIR SINENCI: Staff, we are going to...okay, yup, you got it. Okay. Put an asterisk to put

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

a footnote at the end of the table. Okay, mahalo nui. Moving right along, protect underground water by one, establishing a blasting permit process; two, surveying private well users to find out water being taken from aquifers; three, provide more oversight over private well users. Ms. Blumenstein?

MS. BLUMENSTEIN: Yeah, I don't know really the intent of this one here, both in terms of well construction pump installation standards and permit. That is obviously CWRM's jurisdiction, and those standards and rules are already in place. Surveying private well users, same thing. The maintaining inventory of all water uses and resources is the State Water Commission's jurisdiction as well.

CHAIR SINENCI: But I believe the establish a blasting permit process was the concerns that during blasting about breaking the water cap or the water table. Those were some of the concerns about the blasting permit.

MS. BLUMENSTEIN: As part of well construction or...I don't know the background of this proposed strategy.

CHAIR SINENCI: This came out of some of our meetings of concerns from South Maui too, if they were blasting and just protecting the water cap table...because of some of the rock...the rock formations that are down at South Maui.

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King.

COUNCILMEMBER KING: Just wanted to let you know that I am working on...there is a blasting permit process, but it's not a very good one right now because it doesn't require...it doesn't have any cultural aspect to it either. So I've been working on that because of what's happening in South Maui. So I can add this to looking at the water cap as well.

CHAIR SINENCI: Okay. Yeah, and I believe our Committee has one up for on the Friday's agenda as well.

COUNCILMEMBER KING: Oh, you do, okay. You're ahead of me then, you can take the lead. But we know...we did research the blasting process, and that when we...probably rather than establishing a blasting permit process, we want to refine it or update it or something.

CHAIR SINENCI: Okay. So can we go ahead and remove...Ms. Blumenstein said that we are...the Department doesn't do the well, underground water, the well...private well.

MS. BLUMENSTEIN: Well, both in terms of...yeah, well drilling, well construction, pump installation, and private well reporting in terms of water use. Those are all under CWRM's jurisdiction.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Okay. So Members, can we go ahead and remove MDWS and put CWRM instead? Consensus?

COUNCILMEMBER MOLINA: No...yeah, no objections.

COUNCILMEMBER KING: No objections.

COUNCILMEMBERS VOICED CONSENSUS.

CHAIR SINENCI: Okay, great. Thank you. Okay. Next, we have notify --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: -- kuleana...Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Since I've now heard three of you saying that we already have a blasting permit process, it just needs to be improved, so do you...instead of saying establish, do you want to write improve the blasting permit process and include impacts to disclosure of the...or impact or mitigation to impacts of cultural practices or something along those lines?

CHAIR SINENCI: Yeah, we can...like I said, we got a couple of these blasting permits that will be...so we can...I'm open to improve...improving a blasting permit...the blasting...and then we can go ahead and establish those within the actual bills that we'll be proposing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Do you want to also include a reference...oh, not the blasting part. To --

CHAIR SINENCI: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: -- oh, since Member King was saying that that was absent from the current process.

CHAIR SINENCI: Improve the blasting permit process to...

COUNCILMEMBER RAWLINS-FERNANDEZ: And --

CHAIR SINENCI: And...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- ensure mitigation to protecting cultural --

CHAIR SINENCI: Cultural and --

COUNCILMEMBER RAWLINS-FERNANDEZ: -- geological --

CHAIR SINENCI: -- geological...

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

COUNCILMEMBER RAWLINS-FERNANDEZ: -- yeah, significance.

CHAIR SINENCI: To...

MS. SIEGEL: What was that last one?

COUNCILMEMBER RAWLINS-FERNANDEZ: Cultural impacts. Cultural impacts.

CHAIR SINENCI: Currently...the current permit process goes through the Department of Fire...Fire Department. So should we put Fire Department for the last column?

COUNCILMEMBER KING: Chair?

CHAIR SINENCI: Member King.

COUNCILMEMBER KING: Yeah, we can put Fire Department, but I think it...as far as changing the permit process in ordinance, that's going to be the Council.

CHAIR SINENCI: Yeah.

COUNCILMEMBER KING: Fire Department isn't involved in actually issuing the permit process with the new regulations.

CHAIR SINENCI: Right. Okay. Yeah. You're correct. We won't...okay, we won't add Fire Department on there.

COUNCILMEMBER LEE: Chair?

CHAIR SINENCI: Chair Lee.

COUNCILMEMBER LEE: Chair, just wanted to let you know that I have to jump off the call for another meeting at 4:30.

CHAIR SINENCI: Okay. With that said, mahalo for the reminder. Okay. So Members, we've reached...yeah, this is a good time to end. Thank you. You've reached the end of our APT Committee time. If you scroll down, we've just got a couple more that we'll finish up on September 14th [sic] and we might have some other revisits. Like I said, this is just...this...we don't have a lot, so it gives us the extra time to...for discussion. And we really appreciate that, especially the Aha Moku Councils. So in closing...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR SINENCI: Oh, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. In the meantime, before our next meeting, would it be possible to send some of our revised language to Aha Moku for their feedback?

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES
Council of the County of Maui

September 14, 2021

CHAIR SINENCI: Oh, yes, we can. Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR SINENCI: We can go ahead and reach out to the...to Aha Moku. Thank you --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR SINENCI: -- for that suggestion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR SINENCI: Okay, Members, if there are no objections, the Chair would like to defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS

ACTION: DEFER pending further discussion.

COUNCILMEMBER KING: Chair, are you going to adjourn or recess?

CHAIR SINENCI: We'll probably go ahead and adjourn and then reagendize. Because we might have some new...we might add a couple new items --

COUNCILMEMBER KING: Oh, okay.

CHAIR SINENCI: -- to September 14 [sic]. Yeah. Okay. Staff, did I forget anything?

MS. APO TAKAYAMA: No, Chair. Just to defer if you are done with the item.

CHAIR SINENCI: Yeah, we deferred.

MS. APO TAKAYAMA: Okay. All good.

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

Council of the County of Maui

September 14, 2021

CHAIR SINENCI: No objections. Yeah. Okay. So thank you, Members. That brings us to the end of our agenda. Mahalo to Ms. Chen, Director Pearson and Ms. Blumenstein for serving as our resource persons today. Members, it is 4:30 on the nose, and the Tuesday, September 14, Agriculture and Public Trust Committee meeting is now adjourned. . . . *(gavel)* . . .

ADJOURN: 4:30 p.m.

APPROVED:



SHANE M. SINENCI, Chair
Agriculture and Public Trust Committee

apt:min:210914:cs

Transcribed by: Crystal Sakai

AGRICULTURE AND PUBLIC TRUST COMMITTEE MINUTES

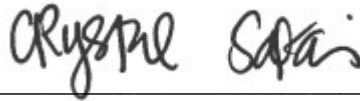
Council of the County of Maui

September 14, 2021

CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 53 of 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 13th day of October 2021, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read "Crystal Sakai", is written over a horizontal line.

Crystal Sakai