



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

TOMMY WATERS
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JOURNAL

SPECIAL MEETING
16TH SESSION
WEDNESDAY, DECEMBER 15, 2021

COMMITTEE MEETING ROOM
2ND FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813

Note: A copy of the video of the full proceedings of this meeting may be requested by calling the City Clerk's Office at 768-5822.

CALL TO ORDER

The special meeting of the City Council was called to order by the Chair and Presiding Officer, Tommy Waters, at 10:13 a.m.

ROLL CALL

Roll call showed the following Councilmembers present in the Committee Meeting Room:

Councilmembers Cordero, Elefante, Fukunaga, Kia'āina, Say, Tsuneyoshi, Tupola, Waters – 8.

Excused: Tulba – 1.

The Chair noted that Councilmembers Tsuneyoshi, Fukunaga, Say, Tupola, Elefante, Cordero, and Kia'āina were present with him in the Committee Meeting Room.

The Chair noted that also present in the Committee Meeting Room were Legislative Branch Staff, Members of the City Administration, media representatives, and a Special Duty Police Officer.

The Chair noted that Councilmember Tulba joined the meeting via video conferencing.

Chair Waters thanked everyone for attending today's hearing and he read the purpose clause of the City Charter, Section 2-102 and noted that the Charter serves as the Council's constitution. He stated that the Council has to protect the health and well-being

of the people of the island and there is no greater resource to protect at any cost than the City's water. Chair Waters stated that the Council had previously taken a stand on this issue with Resolution 15-84, CD1, FD1, Resolution 18-266, CD1, and Resolution 19-270. Today Resolution 21-276 urges the permanent removal and relocation of the U.S. Navy Red Hill Bulk Fuel Storage Facilities underground storage tanks. He noted that the U.S. Navy, the Environmental Protection Agency, the State Department of Health, a representative from the Sierra Club and the public have been invited to voice their concerns. Chair Waters noted that he hopes that today will be a learning and understanding experience and that the Council can be a steward for this measure. He asked the testifiers to show respect to one another.

The following individuals testified via video conference:

1. Keoni DeFranco, Kia'i Report (M-620) (Support Bill 48)
2. Anna Chua (Support Bill 48)
3. Camile Cleveland, Surfrider Foundation O'ahu Chapter (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
4. Peter Koulogeorge (Support Bill 48)
5. Bronson Azama (M-620) (Support Bill 48), (M-621) (Resolution 21-276)
6. Jun Shin, Young Progressives Demanding Action (M-620) (Support Bill 48) (M-621) (Support Resolution 21-276)
7. Sam Ikehara (M-620) (Support Bill 48) (M-621) (Support Resolution 21-276)
8. Maria Lujan (Support Bill 48 and Resolution 21-276)
9. Danielle Espiritu (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
10. Rebekah Garrison, Hawai'i Peace and Justice (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
11. Dave Mulinix, Our Revolution Hawai'i (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
12. Skyler Smela (Support Bill 48), (M-621) (Support Resolution 21-276)
13. Dr. Leonard Rossoff, Windward Coalition (Support Bill 48 and Resolution 21-276)
14. Sandy Ward, Hui o Ho'ohonua 501(c)3 (M-620) (Support Bill 48), (Support Resolution 21-276)
15. Philamer Felicitas (General comment on Bill 48 and Resolution 21-276)
16. Katarina Ruiz (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
17. Kimmer Horsen, DAV (General comment on Bill 48 and Resolution 21-276)
18. Kimeona Kane (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
19. Alfred Keaka Hiona Medeiros (General comment on Bill 48 and Resolution 21-276)
20. Angela Kaaihue (M-620) (General comment on Bill 48)
21. Kauai Burgess, Kamehameha Schools (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
22. Candace Fujikane (Support Bill 48 and Resolution 21-276)

23. Malia Osorio (Support Bill 48 and Resolution 21-276)
24. Colonel Ann Wright, Veterans for Peace (General comment on Resolution 21-276)
25. Darius Kila (Support Bill 48 and Resolution 21-276)
26. Arlene Velasco (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
27. Brett Kulbis (Support Bill 48 and Resolution 21-276)
28. Becky Gardner (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
29. Kyle Kajihira (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
30. Ingrid Peterson (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)
31. Rhiannon Callahan (Support Bill 48 and Resolution 21-276)
32. Jamie Rodrigues (General comment on Resolution 21-276)
33. Kawika Pegram (M-620) (Support Bill 48), (M-621) (Support Resolution 21-276)

RECESS/RECONVENE

At 12:02 p.m., the Chair called for a recess and reconvened the meeting at 1:11 p.m.

Excused: Tulba – 1.

Chair Waters introduced and thanked Ernest Lau, Manager and Chief Engineer, Board of Water Supply (BWS) and his staff for their hard work and diligence in protecting the City's water. He expressed his disappointment that the U.S. Navy, the Environmental Protection Agency (EPA) and the State Department of Health (DOH) would not be joining the meeting.

Ernest Lau, Manager and Chief Engineer, BWS thanked Chair Waters for his kind words. He apologized for not being at the meeting earlier but stated that he was on a tour of the Red Hill Fuel Facility and noted that he got a better understanding of what had happened at the May 6th spill. Manager Lau recognized and thanked the City Council for passing Resolutions supporting their concern and position of the Red Hill Fuel Facility and the need to address and protect the water resources. He stated that the BWS has made a formal request to the Navy leadership requesting an un-redacted version of the forensic investigative report for the May 6th event. Manager Lau stated that he believes that the May 6th event came very close to a potentially catastrophic fuel release event. He noted that the facility needs to empty the fuel from the tanks and pipelines as soon as possible to protect the City's water resources from further damage. He stated that because the BWS does not know where or in what direction the fuel contaminants are traveling, it has shut down the Halawa Shaft and two smaller wells at Halawa and Aiea. Manager Lau stated that all parties need to support the Director of Health's Emergency Order which calls for the defueling of the Red Hill Fuel Facility. He asked the Navy to please realize that fuel is important for our national security but water is also important for the security of the service people and their families and also for the community of O'ahu. He stated that the BWS

does not have any good alternatives for the aquifer. Manager Lau stated he supports the intent of Bill 48 but does not know how he could implement it and would need additional resources. He also stated his strong support of Resolution 21-276.

In response to councilmembers, Ernest Lau, Manager and Chief Engineer, BWS and Erwin Kawata, BWS stated that:

- The BWS has been preparing for years in the event that there is an emergency situation where the power grid from Hawaiian Electric goes out. The BWS has some tunnel sources that flow without electricity but electricity is required to pump the bulk of the water. The BWS also developed a back-up power plan or power resiliency plan using emergency generators both fixed constructed in place and mobile generators that can be moved from well station to well station. The plan has been compromised because of the Halawa Shaft and the BWS cannot risk turning power on or even utilizing back-up generator power in an emergency.
- The generator project took 3 to 5 years to construct and to move and install the generator at another pump station would take 3 to 4 years.
- At the Halawa Shaft, about 10 million gallons of water a day was lost and the BWS will have to distribute 10 million gallons a day and pump it from a variety of different pump stations. The BWS has to watch the salinity levels because if the aquifer is stressed, the water could get saltier and damage the aquifer.
- The BWS is looking at developing replacement wells at other locations that won't be impacted by the Red Hill Fuel Facility but that process could take 6 to 10 years. Replacing the wells would be a long and deliberate process to ensure that the well is constructed properly and that produces safe drinking water meeting all Health Department requirements.
- The BWS will be asking the customers to be very careful with their water usage especially in the Honolulu area from Moanalua, Halawa to Hawaii Kai and East Honolulu.
- The Federal Government needs to step forward and take responsibility and Hawai'i's congressional delegation will need to help.
- The Administrative Order Consent that was signed in 2015 has failed. The BWS was concerned when the Order was being signed 6 years ago and it has not produced anything of substance.

- If fuel gets into the water system, it would be extremely catastrophic condition for water quality because the BWS would not be able to remove the fuel. Water is not a good way to remove fuel which is an organic substance so the next step would be total replacement of the pipelines.
- Pumping the water draws fuel faster. Even if pumping is stopped, there is a natural flow, but eventually the fuel will infiltrate the water system and that is the reason the BWS shut down Halawa Shaft.
- The flushing plan submitted to the Department of Health (DOH) does not involve the BWS system. Clean-up activities should be worked out between the regulator (the DOH) and the owner of the water system (the U.S. Navy). The DOH is responsible for overseeing the Clean Water Act requirements on clean-up of the discharge.
- The BWS is not sure if the U.S. Navy is receiving technical assistance from the EPA and DOH to identify where the contamination may have migrated into the aquifer. The BWS has participated in discussions with the Aquifer Recovery Working Group.
- The BWS continues to work and speak with the DOH but ultimately it is the DOH that will come up with the requirements.
- If the aquifer was compromised, the immediate action would be conservation of water, and the BWS would investigate whether or not treatment is a viable option.
- The BWS is initiating a project for the construction of a sea water desalination plant in Kalaeloa and has an aggressive schedule to try to get that project on-line by 2024.
- In the Navy Groundwater Modelling Report, it shows the particle track of leaks that originate at the tanks, not at the Red Hill Shaft. The preliminary report which has not been approved by the regulators (EPA and DOH) showed particle tracks of fuel going to Halawa Shaft, Aiea Wells, Halawa Wells, and also impacting the Aiea/Halawa Shaft on the Ewa side of Halawa Valley and then continuing as far as Kalawao Springs and Pearl Harbor.
- The BWS looked at other states with similar situations and found that the entity responsible for protection of the environment was very aggressive and very proactive in their requirements and did not allow the Navy or the military get away with things.

- The BWS heard about Bill HR4350 relating to Red Hill but has not seen the final version.
- The BWS received a request and met with the Chief of Naval Operations.
- The BWS has requested for years to meet with the Military Affairs Committee.
- BWS customers who would like to get tested can call the BWS. Requests will be given to the Water Quality Division for follow-up with the individual customer.
- The BWS tests the five nearest wells around the Red Hill facility on a weekly basis and posts the test results on its website but no fuel has been detected. In order for fuel to get into the water system, it would have to come from a contaminated aquifer or a direct connection that allows Navy water to move into the BWS system. The BWS has emergency connections to provide water to the Navy but all those connections are protected from the Navy water coming back to the BWS.

Councilmember Cordero stated that the BWS, organizations and the Council needs to work together to have the fuel removed and even to partner with the Legislature and Hawai'i's congressional delegation.

Chair Waters stated that the near catastrophic spill in May 2021 put an extreme strain on the City's water system which may result in not permitting new water meters or building of more housing. He thanked the BWS for their hard work and for coming to the special meeting to offer all the information and comments.

Chair Waters introduced Marti Townsend from the Sierra Club and thanked her for coming and sharing her perspective on what has happened over the years. Ms. Townsend stated that in 2002 the EPA authorized the State Department of Health (DOH) to oversee the permitting of underground storage tanks and then the DOH exempted Red Hill from all oversight with no authority. She stated that the State and Federal statute does not authorize the DOH to exempt an underground storage tank and that the Sierra Club sued the DOH to have the exemption removed.

In 2014 there was a 27,000 gallon leak and in October 2015, the Administrative Order and Consent (AOC) was approved. The final decision making authority was delegated to the EPA which is the sister agency of the DOH. She noted that if there is a new AOC, the Council needs to make sure that the BWS is the final decision maker.

Between 2017 and 2020, the U.S. Navy submitted an application for a permit and in 2019 the Sierra Club petitioned for a contested case hearing. The hearing was in February 2021 and during the hearing there was a leak activity happening and the Navy staff and officials

lied under oath. She noted that every two years there is a new officer, and being good people, they promise things will never happen again and they promise to fix things but then there is a change and there is no one to hold accountable for the promises made. She stated that a whistleblower revealed that the Navy had misled the Hearing Officer in the contested case and petitions filed to reopen the case were granted. The new hearing date has not been set but new evidence is being put on record with a new recommendation from the Hearing Officer. The Director of the Department of Health would make the final decision on the permit and it would be a 5-year permit to operate the Red Hill fuel tanks.

In response to councilmembers, Marti Townsend stated that:

- The Water Commission is having a hearing on December 21, 2021 and encouraged everyone to attend.
- There was a decision made that the DOH would be the ones to take the lead because they have the responsibility for safe drinking water and underground storage tanks. She noted that the City cannot afford to rely on other agencies to protect the constituents' best interest and that the Council should take every opportunity to create that authority.
- The Bill provides an opportunity for the City to take action going forward to better protect water resources because the other agencies have failed to do so.
- The Water Commissioners have been really concerned and involved and are trying to make sure that the water quality is protected.
- The Federal Bill that is moving forward requires the Navy to inspect the pipeline but not the fuel storage tank because they do not want to be held accountable for what is happening at the tanks.
- She is a Sierra Club volunteer and is offering historical perspective. She stated that between 2015 and October 2021 she had several meetings with Hawai'i's congressional delegation and their staff and has made a case as to why the Red Hill Fuel Tanks need to be retired. She noted that they relied on the risk and vulnerability assessment that has been done multiple times.
- The Navy who knew this may have happened had no fresh water reserves set up for themselves and no filters on hand.

- The importance of the Bill is to provide another avenue for residents' needs to be met, to tell the Navy what they can and cannot do, and to speak as one voice to let President Biden know that O'ahu is not sacrificing its water for war and that the Navy needs to figure out another way to store their fuel.

ORDER OF THE DAY

FIRST READING

BILL 48

A BILL FOR AN ORDINANCE RELATING TO UNDERGROUND STORAGE TANKS.

Councilmember Kia'aina moved that Bill 48 pass first reading. Seconded by Councilmember Tupola.

Please see list of individuals that testified via video conference on pages 2 and 3.

The following individual testified:

Senator Kurt Fevella (Support)

Councilmember Cordero thanked all councilmembers for joining the meeting for this very important measure. She also thanked the BWS for informing her of the situation because her office had received calls regarding the water contaminants. Councilmember Cordero stated that she, her staff, legislators, and neighbors who tried to help got kicked out. She noted that there continues to be confusion for the military neighbors and the surrounding neighbors because everyone is fearful for O'ahu's precious water. Councilmember Cordero stated that as the Bill moves forward that the Council needs to come up with a plan as a body so that the City is not as negligent as the Navy has been with the water and neighboring residents.

Chair Waters stated that this is an emotional issue. He noted that on his water bottle it says, water for life.

Councilmember Tupola spoke in support of the measure and thanked the introducers. She stated that Ms. Thompson has brought back historically that prior to this a lot of this was speculation. She also noted that on the BWS page, some of the Fuel Tank Advisory Committee meeting information was posted. Councilmember Tupola stated that she looks forward to amendments to make the measure stronger and create a change.

Councilmember Elefante thanked Chair Waters and Councilmember Cordero for introducing the measure, for the leadership and for having the Special Meeting on this very important matter. He stated his strong support to Bill 48 as well as Resolution 21-276. Councilmember Elefante expressed his disappointment that the Department of Health and the U.S. Navy did not attend the meeting. He noted that councilmembers have to live, breathe and take in the water and that this is something that we have to live with for generations to come. Councilmember Elefante stated that he is imploring the congressional delegation as well as those on the Federal level to take action to defuel the tanks as well as to relocate them to protect our aquifer and our water resources.

Councilmember Say stated imua and laulima, let us move forward and work together.

Chair Waters quoted the United States Code, Title 42, Section 6991F and stated that he believes that the Council is well within its responsibility to legislate the issue. He noted that the Bill is at first reading and it will be referred to the Committee on Transportation, Sustainability and Health and he would welcome any amendment. Chair Waters recommended passage of the Bill.

Councilmember Elefante noted for the record that he filed a Disclosure of Interest Statement with the City Clerk's Office (CC-430).

Bill 48 passed first reading.

AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI,
TUPOLA, WATERS – 8.
NOES: None.
ABSENT: TULBA – 1.

Related communications:

CC-428 Council Chair Tommy Waters
D-801 Board of Water Supply
M-620 Testimony on Bill 48

ADOPTION
RESOLUTION 21-276, FD1

RESOLUTION URGING THE IMMEDIATE DEFUELING, PERMANENT REMOVAL, AND RELOCATION OF THE U.S. NAVY RED HILL BULK FUEL STORAGE FACILITY UNDERGROUND STORAGE TANKS.

The following amendment was handcarried to the meeting:

Resolution 21-276, Proposed FD1 (OCS2021-1083/12/15/2021 3:56 PM)

Councilmember Kia'āina moved that Resolution 21-276 be adopted. Seconded by Councilmember Tupola.

Please see list of individuals that testified via video conference on pages 2 and 3.

The following individual testified:

Senator Kurt Fevella (Support)

Councilmember Kia'āina stated that the Resolution that she introduced urges the permanent removal and relocation of the fuel tanks at Red Hill and it also built upon the advocacy work undertaken by Councilmember Fukunaga, other councilmembers and the leadership of the BWS. She noted that her Resolution also urges the Navy to fully comply with the State DOH's Emergency Order and urges the BWS to develop a water source protection plan and urges the U.S. Congress to direct the Navy through legislation to develop a plan for removal and appropriate the necessary funds for the Navy to implement that plan. Councilmember Kia'āina stated that all of the parties are in place to be well poised for action because we have Senator Schatz and Representative Case on the Appropriations Committee and Senator Hirono and Representative Kahele on the Arms Services Committee, there is a democrat controlled congress and a democrat President. She stated that the number two person of the Department of the Defense (DOD) came to Hawaii but did not have the courtesy to meet with the BWS or Mayor Blangiardi and that concerns her because the DOD official stated that they need to double down on the efforts to earn the trust and confidence of the people of Hawaii to manage the situation. Councilmember Kia'āina expressed her appreciation to Chair Waters and Councilmember Cordero for having the meeting to allow for public testimony on this very important and emotional issue. She also urged the adoption of Resolution 21-276.

Councilmember Tsuneyoshi explained that she wants to add an amendment to the Resolution and asked for those considerations. Councilmember Kia'āina agreed.

Please see Bill 48 for Councilmember Elefante's comments.

Councilmember Elefante noted for the record that he filed a Disclosure of Interest Statement with the City Clerk's Office (CC-429).

RECESS/RECONVENE

At 3:26 p.m., the Chair called for a recess and reconvened the meeting at 4:11 p.m.

Councilmember Tsuneyoshi moved the Resolution be amended to the handcarried FD1 (OCS2021-1083/12/15/2021 3:56 PM). Seconded by Councilmember Tupola. Councilmember Tsuneyoshi explained the FD1 amendment.

Resolution 21-276 was amended to the handcarried FD1 (OCS2021-1083/12/15/2021 3:56 PM).

AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI,
TULBA, TUPOLA, WATERS – 9.

NOES: None.

Council Rule 19.G relating to 48-hour notice was waived.

AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI,
TULBA, TUPOLA, WATERS – 9.

NOES: None.

Councilmember Tsuneyoshi thanked Councilmember Kia'āina for allowing the amendment and to Chair Waters and Councilmember Cordero for introducing the Bill and noted that all councilmembers stand united and in support of the people. She shared a statement from Governor Waihee and stated that as councilmembers they know that justice is being denied in this situation in many ways and that the Council needs to see that justice is served.

Councilmember Tupola stated her support for the Resolution and thanked Councilmember Kia'āina for bringing up Federal delegation issues in regard to pushing the measure forward together. She expressed that she is glad that the Council can take a stand and have a clear directive as far as where all of us stand on what needs to happen.

Chair Waters stated that the BWS is still with councilmembers listening to the meeting and thanked them for showing their support and how much they care.

Resolution 21-276, FD1 was adopted.

AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI,
TULBA, TUPOLA, WATERS – 9.

NOES: None.

Related communications:

D-802	Board of Water Supply
D-803	Ala Moana Kaka'ako Neighborhood Board No. 11
M-621	Testimony on Resolution 21-276

COMMITTEE OF THE WHOLE/EXECUTIVE SESSION

There was no Executive Session.

ANNOUNCEMENT

Councilmember Tsuneyoshi announced that the Commission on Water Resource Management will be having a meeting on December 21, 2021 at 9 a.m. via zoom, meeting ID8478525017. She noted that if anyone has questions or would like a copy of the agenda to contact her office at (808) 768-5002.

Chair Waters thanked Access Media for setting up and assisting so that 'Ōlelo could broadcast the meeting. He also thanked the staff of the Office of Council Services and the Clerk's Office.

ADJOURNMENT

At 4:17 p.m., Councilmember Kia'aina moved that the Council stand adjourned until Wednesday, January 26, 2022, at 10 a.m. Seconded by Councilmember Tupola and there being no objections from the 9 members present, it was so ordered by the Chair.

Respectfully submitted,

GLEN I. TAKAHASHI
City Clerk

jy

DATE APPROVED:

January 26, 2022