

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 24, 2004

Committee
Report No. 04-143

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Water Resources Committee, having met on August 4, 2004, makes reference to County Communication No. 03-211, from the Council Chair, regarding legal issues relating to the County's policies on the issuance of water meter reservations, including the possible retention of special counsel.

Your Committee notes that County Communication No. 03-211 was referred to your Water Resources Committee at the July 27, 2004 Council meeting by Committee of the Whole Committee Report No. 04-112.

By correspondence dated July 27, 2004, the Chair of your Committee transmitted the following:

1. A draft resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL IMANAKA KUDO & FUJIMOTO FOR WATER-RELATED MATTERS".

The purpose of the draft resolution is to authorize additional compensation for special counsel Imanaka Kudo & Fujimoto for water-related matters.

2. Correspondence dated September 19, 2003, from Benjamin A. Kudo of Imanaka Kudo & Fujimoto to the Director of Council Services, expressing interest in providing legal services and the firm's statement of qualifications.
3. Correspondence dated March 24, 2004, from the Department of Finance to Imanaka Kudo & Fujimoto, transmitting a copy of Contract No. C3282 for \$10,000 entitled "CONTRACT FOR LEGAL SERVICES FOR WATER-RELATED MATTERS".

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 24, 2004
Page 2

Committee
Report No. 04-143

By correspondence dated August 2, 2004, Benjamin A. Kudo, Naomi U. Kuwaye, and Bree M. Kurihara, Imanaka Kudo & Fujimoto, requested additional compensation of \$40,000 to \$60,000.

At its meeting, your Committee met with the Director of Water Supply; a Deputy Corporation Counsel; and Naomi Kuwaye, Esq., of Imanaka Kudo & Fujimoto.

Your Committee received public testimony from two individuals. The first person requested that the current system of issuing water meters on a first-come, first-served basis be examined. The second person testified in support of additional compensation for special counsel.

Your Committee discussed the existence and possible contents of a report on water quality in the Upcountry Maui area. Your Committee discussed water testing conducted by the Department of Water Supply and analyzed by a private laboratory service.

Ms. Kuwaye provided an overview of the firm's request for additional compensation. She indicated that your Committee had requested that the special counsel look into certain factual issues involving water meter issuance and reservations, the Council's authority in water-related matters, an extension to the Water Meter Issuance Rule for the Upcountry Water System, and the management of the Iao and Waihee Aquifers. The special counsel will present the Water Resources Committee with a number of alternative solutions to choose from before proceeding to draft proposed legislation.

The Director of Water Supply indicated that the Department will cooperate with the special counsel, and that he will be the point of contact. Ms. Kuwaye indicated that her firm will be seeking the current and past Upcountry priority lists, and the Department of Water Supply's written policy on releasing water meters. They will also be requesting interviews with various Department of Water Supply employees.

Your Committee discussed whether the allocation of water relates to issues the special counsel is expected to examine. Your Committee noted that the specific issue of water allocation is not mentioned in the resolutions authorizing special counsel.

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 24, 2004
Page 3

Committee
Report No. 04-143

Your Committee discussed the need to understand the Council's authority regarding water-related matters. Your Committee emphasized the need to examine the validity of the authority currently being exercised by the Administration to guaranty certain users access to water.

Your Committee expressed public notice concerns with respect to safe drinking water. Your Committee questioned whether the Department of Water Supply had or would notify the public if drinking water was not safe. The Director of Water Supply indicated his awareness of public notice requirements in the Safe Water Drinking Act.

Your Committee discussed the possibility of exercising the Council's authority granted by the Charter to investigate the Department of Water Supply.

Your Committee identified the need to extend the Water Meter Issuance Rule for the Upcountry Water System as a priority consideration since this rule will lapse on January 1, 2005.

Your Committee discussed the possibility of having special counsel work with the Water Resources Committee staff to draft legislation regarding County water issues.

Your Committee discussed the need to authorize adequate additional compensation to enable the special counsel to continue work during the transition between Council terms.

Your Committee recommended that the draft resolution be revised to include \$60,000 in additional compensation for special counsel, for a total of up to \$70,000.

Your Committee voted to recommend adoption of the revised draft resolution.

Your Committee is in receipt of a proposed resolution from the Department of the Corporation Counsel incorporating your Committee's suggested revisions.

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 24, 2004
Page 4

Committee
Report No. 04-143

Your Water Resources Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL IMANAKA KUDO & FUJIMOTO FOR WATER-RELATED MATTERS" be ADOPTED.

Adoption of this report is respectfully requested.

wr:cr:0419ba:rkk

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 24, 2004
Page 5

Committee
Report No. 04-143

DANNY A. MATEO **Chair**

DAIN P. KANE **Member**

CHARMAINE TAVARES **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

WAYNE K. NISHIKI **Member**

G. RIKI HOKAMA **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**