

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
TRANSPORTATION COMMITTEE**

December 7, 2001

**Committee
Report No.**

01-244

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

Chair and Members:

Your Public Works and Transportation Committee, having met on November 14, 2001, makes reference to County Communication No. 99-62, from the Chair of the Public Works and Water Committee, requesting that the matter relating to future proposed rules for the Board of Water Supply be referred to the Public Works and Water Committee at the Council meeting of January 22, 1999.

Your Committee notes that County Communication No. 99-62 was referred to the prior Council's Public Works and Water Committee at the Council meeting of January 22, 1999.

Your Committee notes that it is in receipt of the following:

1. Public Works and Water Committee Report No. 99-40, relating to the Iao Water Management Rule;
2. Correspondence dated July 16, 1999, from the Chair of the Public Works and Water Committee, transmitting a Transcript of Proceedings relating to the Department of Water Supply's "Kula Rule"; and
3. Public Works and Water Committee Report No. 99-124, relating to the proposed amendment to the Water System Development Fee Rule for the Board of Water Supply.

At its meeting of November 15, 2000, the Public Works and Water Committee recommended that County Communication No. 99-62 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 99-62 to your Public Works and Transportation Committee (County Communication No. 01-24).

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By correspondence dated February 22, 2001, Councilmember Wayne K. Nishiki transmitted a letter dated February 12, 2001, from James V. Williamson, P.E., commenting on the Central Maui water supply system.

By correspondence dated November 8, 2001, the Council Vice-Chair transmitted correspondence dated November 5, 2001, from the Director of Water Supply, transmitting proposed amendments to Chapter 2 and Subchapter 8 of the Rules of Practice and Procedure for the Maui County Board of Water Supply.

The purpose of the proposed rule amendments to Chapter 2 is to comply with State law that requires agencies to make decisions within a specific time period. The purpose of the proposed rule amendments to Subchapter 8 is to establish an appeals process for the Board of Water Supply.

By correspondence dated November 8, 2001, the Council Chair transmitted correspondence dated November 5, 2001, from the Director of Water Supply, advising the County Council of the Department's intention to transmit additional proposed amendments to its rules in the near future.

Your Committee notes that Section 8-11.8 of the Revised Charter of the County of Maui requires the Mayor to either approve or disapprove and transmit the proposed rule to the Council within 15 days of receipt. If the Mayor takes no action, the proposed rule is deemed approved and transmitted to the Council on the sixteenth day. Because the Mayor neither approved nor disapproved of the proposed amendments, the rule amendments were considered approved.

Your Committee further notes that Section 8-11.8 allows the Council 45 days to confirm the Mayor's recommendation or to override the Mayor's recommendation by a two-thirds majority vote. The Council's 45 days would expire on December 22, 2001.

At its meeting, your Committee met with the Deputy Director of Water Supply, and the First Deputy Corporation Counsel.

The First Deputy Corporation Counsel provided an overview of the matter. He noted that the Board of Water Supply (BWS) is proposing two amendments to

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the Rules of Practice and Procedure for the Maui County Board of Water Supply. The first proposal amends Chapter 2, relating to procedural rules. The purpose of the first amendment is to comply with State rules which requires agencies to make decisions within a specific time period. The second proposal amends Subchapter 8 to establish an appeals process.

The First Deputy Corporation Counsel clarified the time limitations for the appeals process and for contested cases, differentiating between the 60-day time period that the BWS is given to make decisions and the 30-day time period during which cases can be appealed or contested.

Your Committee considered a draft resolution approving the amendments as proposed by the BWS. Your Committee recommended the adoption of the draft resolution.

By correspondence dated November 16, 2001, the Chair of your Committee requested that the Department of the Corporation Counsel revise the draft resolution approving the two amendments as proposed by the BWS and approve the resolution as to form and legality.

By correspondence dated November 19, 2001, the Department of the Corporation Counsel transmitted a proposed resolution entitled "APPROVING THE AMENDMENTS TO THE RULES OF PRACTICE AND PROCEDURE FOR THE MAUI COUNTY BOARD OF WATER SUPPLY". The purpose of the proposed resolution is to approve the rule amendments to Chapter 2 to comply with State law that requires agencies to make decisions within a specific time period, and to Subchapter 8 to establish an appeals process for the Board of Water Supply.

Your Public Works and Transportation Committee **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "APPROVING THE AMENDMENTS TO THE RULES OF PRACTICE AND PROCEDURE FOR THE MAUI COUNTY BOARD OF WATER SUPPLY" be **ADOPTED**.

Adoption of this report is respectfully requested.

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