

BOARD OF WATER SUPPLY
COUNTY OF MAUI

REGULAR MEETING
MINUTES OF JUNE 23, 2011

The regular meeting of the Maui County Board of Water Supply was held at the Department of Liquor Control office conference room, 2145 Kaohu Street, Room 105, Wailuku, Maui, on Thursday, June 23, 2011.

CALL TO ORDER

The June 23rd meeting was called to order by Chairperson Phyllis Robinson at 9:01 a.m.

ATTENDANCE

Members present: Phyllis Robinson, Chairperson
 Kelli Myers, Vice Chair
 Patricia Eason
 Donald Gerbig
 John W. Hoxie, Jr.
 James Rust
 Ted Yamamura

Members excused: Kevin Boteilho
 William Kamai

Staff present: David Taylor, Director
 Paul Meyer, Deputy Director
 Edward S. Kushi, First Deputy Corporation
 Counsel
 Gaye Hayashida, Commission Support Clerk

Others: Mary Blaine Johnston, Deputy Corporation
 Counsel
 William Blietz

ANNOUNCEMENTS

None.

APPROVAL OF MINUTES

Chair Robinson asked for an approval of the minutes of May 26, 2011.

Motion: Member Hoxie moved to approve the minutes of May 26, 2011
Second: Member Yamamura
Discussion: None
Vote: Unanimous. Motion passed.

TESTIMONY FROM THE PUBLIC

None.

APPEALS

Appeal No. 08-02, an appeal by Kalama Hills Subdivision / Richard Armour. The appellant has withdrawn his appeal per letter dated May 31, 2011.

Chair Robinson asked for a motion to accept the withdrawal.

Motion: Member Hoxie moved to accept the withdrawal
Second: Member Eason
Discussion: None
Vote: Unanimous. Motion passed.

Ms. Hayashida informed the board that there is no appeal fee because at the time the appellant filed his appeal in 2008 there was no ordinance requiring him to pay a fee.

Based on this information the board took no further action on this matter.

Appeal No. 08-06, an appeal by William Blietz. The appellant is requesting a postponement.

Motion: Member Hoxie to grant a postponement.
Second: Members Yamamura and Eason
Discussion: Member Hoxie asked if there was a reason for the postponement. Mr. Blietz replied that there is an agreement but only a part of it has been executed; he would like to see it fully executed. Mr. Blietz asked for another 2 or 3 months. All parties agreed to have this matter postponed to September 22nd.

Member Yamamura asked for a summary of the remaining issues that are not resolved. Deputy Director Meyer explained that they have a certain amount of work that needs to be done in terms of installing a pressure reducing valve. The engineering design is

pretty much complete but the work remains to be scheduled and that is the last item which is holding up finalization of the settlement agreement. They are hopeful that it can be done within a couple of months.

Member Yamamura asked Mr. Blietz if this is his understanding of the situation. Mr. Blietz answered yes, it is.

Vote: Unanimous. Motion passed.

UNFINISHED BUSINESS

None.

OTHER BUSINESS

Discussion and possible action regarding the Board of Water Supply's Recommendation(s) to the Maui County Charter Commission

(As requested by Chair Robinson, the discussion relating to the Board's recommendation(s) to the Maui County Charter Commission is transcribed herein.)

CHAIR ROBINSON: So, are there, is there any Unfinished Business?

(silence)

CHAIR ROBINSON: Then if not we're going to move to a discussion and possible action regarding the Board of Water Supply's recommendations to the Maui County Charter Commission. And I believe all of you have been given copies of the current charter. Anybody need a copy that did not print it out? Anybody? Ok, and does anyone need a copy of the Final Report, the 2001-2002 Final Report? I believe Ted, you have the cover. I didn't print out the cover. Why don't you hold it up so everyone, has everyone got that document with you? Ok. Yes? James, yes? Ok, ok. So everyone has that document. And is there any other, any other documents that, oh, I believe John, you passed out a, a structure history.

MEMBER HOXIE: That's right.

CHAIR ROBINSON: And that will go in, in conjunction with the charter final report. So, I would like to entertain proposals from anyone on the board for what we want to accomplish today, in today's meeting regarding the, the agenda item of recommendations.

DIRECTOR TAYLOR: Madam chair?

CHAIR ROBINSON: Yes.

DIRECTOR TAYLOR: I just have a, just a factual input on this.

CHAIR ROBINSON: Ok.

DIRECTOR TAYLOR: Corp Counsel, you gave me a copy of this special charter commission report the other day from 1988.

CHAIR ROBINSON: Eighty-eight, wow.

MR. KUSHI: Eighty-seven, yeah.

DIRECTOR TAYLOR: Eighty-seven. Does the commission have this? Ok. The only reason I point it out is, is there's a chronology in here about autonomous, semi-autonomous that does not quite match what was handed out today.

CHAIR ROBINSON: Oh, ok.

DIRECTOR TAYLOR: Now, I wasn't here, I don't know which is right but they're, they're just a little bit different. And so...

CHAIR ROBINSON: Ok. Would you point out, please, since we don't have a copy of that what you're, you're...

DIRECTOR TAYLOR: Ok, according to this document which was a Special Charter Commission Report in 1980...let's see, it was dated, dated 1988. It says prior to 1955, semi-autonomous; 1955 to 1960, county department.

CHAIR ROBINSON: Instead of advisory?

DIRECTOR TAYLOR: I'm just reading exactly what it says, which is "county department."

CHAIR ROBINSON: Ok, ok.

DIRECTOR TAYLOR: Then it says from 1960 to 1977, semi-autonomous...

CHAIR ROBINSON: Ok, instead of 78?

DIRECTOR TAYLOR: Then it says from 1977 to 1983 it says county department with the Board of Water Supply retaining some power.

And then finally, it says since 1983 it has been a county department with the Board of Water Supply retaining no power. So, I just wanna point that these dates in the special report are just a little bit different. I just wanna just say for the record.

CHAIR ROBINSON: So, so...

MEMBER HOXIE: From 1983 to 1989?

DIRECTOR TAYLOR: From 1983 until the, the, the presentation of this document, which was signed on February 17th, 1988. So it says since 1983, so from 1983 to...

CHAIR ROBINSON: 1988.

DIRECTOR TAYLOR: 1988.

CHAIR ROBINSON: Yeah.

DIRECTOR TAYLOR: Or at least early in, or at least the end of 1987, let's say, it was a county department with the Board of Water Supply retaining no power. So that's what this special report indicates.

CHAIR ROBINSON: Ok. And then since then from, from 1989 to 2002, your chart, John, shows it being semi-autonomous and then from 2002 to the present it has been advisory. Where did you get this information?

MEMBER HOXIE: Well, mostly from here and then I, I, I also tried to look at from, from 1988 on. I know that they were semi-autonomous from 89 to 2002.

CHAIR ROBINSON: Ok.

MEMBER HOXIE: I was just trying to show what the changes have been.

DIRECTOR TAYLOR: Oh, you copied from the same thing I was reading from? Ok.

MEMBER HOXIE: Yeah.

DIRECTOR TAYLOR: That's why there's just some minor...ok. That's it. Thank you.

CHAIR ROBINSON: Alright, so, so John, going back to my question which is what, what do board members feel you would like to accomplish in today's meeting because we have been told by Deputy Corporate (sic) Counsel Ed Kushi that this is a fairly long drawn out process but we don't really know what our exact deadlines are and so we don't really know how much we need to accomplish in the course of this meeting in order to meet that deadline. And, and, and I'm assuming that we still have a nebulousness about, about the deadline?

MR. KUSHI: I staff the Charter Commission and right now they're in the process of going through all the community areas, like meetings, get input from the community members, which has been very disappointing.

MEMBER HOXIE: Disappointing?

CHAIR ROBINSON: In terms of numbers?

MR. KUSHI: In terms of people showing up, yeah.

CHAIR ROBINSON: Ok.

MR. KUSHI: I think, like the first one at Pukalani we had 10. Next one at Kahului we had 5. Last one at Paia we had 7. And out of these numbers 4, 3 or 4 of 'em are the same people. And then for the next 3 or 4 weeks, 3 to 4 weeks we'll be going to every place else, Lahaina, next Lahaina, the following week Kihei, Molokai, Lanai, Hana. We're gonna wrap it up maybe probably at the end of July. Then the commission will come back and huddle together, get, kinda sift through what they received and then come with their own proposals. So, in essence you have probably 'til, I would say, should not be later than September...

CHAIR ROBINSON: Ok.

MR. KUSHI: Of, of this year to get something concrete for the commission, right.

CHAIR ROBINSON: For us to have recommendations.

MR. KUSHI: Then what the commission plans to do is probably in November or December, go back to the community again and, and let them know what is, these are the commission's proposals. Get input again. That takes another month, month and a half, come back and huddle, huddle amongst themselves and do a final, final draft. Then that final report goes to the council.

CHAIR ROBINSON: And the final draft is due when?

MR. KUSHI: For their purposes, is due in April of 2012.

CHAIR ROBINSON: April 2012.

MR. KUSHI: First or second week.

CHAIR ROBINSON: So, what we, what we got to look at, the 2001-2 final recommendations would be the form that that would have to be in by April 2012?

MR. KUSHI: Right. Now, you know, it doesn't have to be perfect, the commission has a, a staff analyst. They'll sift through the correct language.

CHAIR ROBINSON: Ok.

MR. KUSHI: But just the, just the gist of the whole issue. And then for this board it's basically leave well enough alone or go back to, go back to the future.

CHAIR ROBINSON: Alright, so knowing, knowing these parameters, what would you like as a board to accomplish...

MEMBER GERBIG: I have a question.

CHAIR ROBINSON: In today's meeting.

MEMBER GERBIG: We've been asked as a board to come up with a recommendation. We're not required to do so as far as authority or any thing like that, correct?

MR. KUSHI: The commission chair just decided to get, request all agencies...

MEMBER GERBIG: Oh, I see, ok. Standard SOP, great.

MR. KUSHI: Now, I understand that the administration, the department as well as all other departments are not individually making requests. I think it's gonna come from the 9th Floor, Dave?

DIRECTOR TAYLOR: That's correct, we've been...

MR. KUSHI: As a package deal for the whole administration.

DIRECTOR TAYLOR: We've been instructed by the Managing Director to give as departments, our input to the Managing Director and the Administration as an entity will be either submitting recommendations or not.

MEMBER GERBIG: Submit their testimony also, in addition to us.

DIRECTOR TAYLOR: That's correct.

CHAIR ROBINSON: And I know with the water use development plan we turn our recommendations over to you and then you present them to the council, correct? Or to the Mayor?

DIRECTOR TAYLOR: To the council, that's how, that's a completely different methodology.

CHAIR ROBINSON: Right.

DIRECTOR TAYLOR: In this case you are asked...

CHAIR ROBINSON: What about...

DIRECTOR TAYLOR: Directly as a board for your board recommendations to the Charter Commission. It doesn't come through me...

CHAIR ROBINSON: Ok.

DIRECTOR TAYLOR: I make no comment on it. It's your board's recommendation. It's not a recommendation to me.

CHAIR ROBINSON: So, that's a helpful distinction.

MEMBER GERBIG: Yeah, understand.

CHAIR ROBINSON: Ok, so, knowing that, that we are able to make these recommendations and that they stand as is, they don't go through the department's, we make them...

MEMBER GERBIG: Understand, yeah.

CHAIR ROBINSON: Directly to the Charter Commission. However, we understood from the last set of discussions we had at the last meeting that even if we make these recommendations as we've witnessed in the 2001-2002 final, final draft that those recommendations can be overturned by the commission? Is that correct?

MR. KUSHI: The commission itself decides what to put on the ballot.

CHAIR ROBINSON: I see.

MR. KUSHI: They can, they can take your proposal and write it up or file it in the circular file.

CHAIR ROBINSON: So, so what I would ask in terms of not wanting to waste the time of our board, since we are a volunteer board, in a process where we go through the motions of making these recommendations and then they get overturned, can you advise us, Ed, as to the ways that you've understood the commission's process that would make our recommendations be taken more seriously.

MR. KUSHI: I wish I could. I wasn't involved in the last Charter Commission. That was back in 2002.

MEMBER HOXIE: 2002.

MR. KUSHI: Yeah, so.

CHAIR ROBINSON: Does, has anyone had the experience of this that would be able to answer that question? John?

MEMBER HOXIE: I don't have the experience to answer the question but maybe if I could kinda step back a little bit...

CHAIR ROBINSON: Yes.

MEMBER HOXIE: And give you my perspective. I think that all of us have been on the Water Board after the adoption of the present status and so we've spent 2, 3, 4 years, whatever it is, working with the system that we have right now.

CHAIR ROBINSON: Yes.

MEMBER HOXIE: When I got this summary, which I'm sure you all read, I really realized what the difference was between the charter proposal and, which was on page 23, talking about a strong Water Board, talking about the way that it was intended to be or recommended to be by the Charter Commission, to be semi-autonomous. And you know, like Dave said, there's lots of little wrinkles in being semi-autonomous but anyway that was for us; versus the alternative proposal on 27 which was adopted, which leaves us with very little to do. Now, we have, we have appeals and we have the

budget that we've discussed; we really don't have much input on it. And water rates which we have really not been involved in at all. So, for me anyway, and I was hoping that we could have a discussion about this because when I, when I look back over 2002 to now, what has happened? What's happened? We've had 3 water directors; we have 2000 people still on the list for water meters Upcountry; we have water resources that have been put on hold, H'poko wells; we've put East Maui Consent Decree which has somewhat limited the development of water. So, in my own mind, and that's why I wanna talk about it with you people, where have we gone, under the present structure? I think that in this special charter report in 1988, it talks about the Board of Water Supply needs to be independent from the day-to-day politics, needs to provide more long term continuity to serve Maui water needs. And so, my question to you and to myself is that happening under the present structure? I mean if we're gonna continue the same way, in my opinion, I wonder whether the work that we're doing can be done by other people. You know, why waste Dave's time down here, you know what, can it be done another way, the appeals, there's some appeals board. The budget, we really don't have a whole lot to do with, the water rates. I don't know, I was kinda looking back at water rates between our county and the other counties. You know, our water rates from what I've found are very low. So I just have a lot of questions in my mind as whether this board in the present structure should continue this way. Or it should somehow go back to the way it was. Anyway, that's my...

CHAIR ROBINSON: That's a reasonable question and I wanna give everyone an opportunity to respond.

MEMBER EASON: I agree with this. With the things that we're supposed to be doing, you don't need us really. Because there's other sources that can handle all of this and like they can do that also. So, if it's just an advisory, personally, I think why? Just to meet and talk about it and give us just those positive strokes, let the people know well, there's other people on the board that's from our community. So, in a sense, for me personally, driving 2 hours and coming here and saying ok, I'm just gonna advise and has no teeth in it, is a waste of my time.

CHAIR ROBINSON: Thank you, Patricia. James, did you have something you wanted to say?

MEMBER RUST: No...

CHAIR ROBINSON: Actually I'm gonna...

MEMBER RUST: I know what the...

CHAIR ROBINSON: Can I ask you, James, in addition to what you're about to say, I would like to ask if you can reflect with us on a time when the board had more power and what was that like.

MEMBER RUST: Ok. When I got on the Water Board the mayors prior to that, and the council had control over the Water Department. And our water lines out in the outlying areas just started to deteriorate, just started to go down hill. When it came back to semi-autonomy and it gave the Water Board and the board chair some power, in a first few years we spent \$20 million in repairs. Repairs that had been neglected because, and let me, I'm gonna use words that I've heard forever, how politicians use the Water Department as a political football. And they made decisions according to their campaigns to get into office. And we got not too many things done. So, when it finally got semi-autonomous again, we had a whole bunch of work. Our board chair had power. Our board chair brought our director up on evaluation 3 times in my 5 years for disciplinary actions and other things. If the board gets a recommendation from the department on what the department wants to do and the board makes the decision whether it gets done or not. So, the board had the power, but the power to do good things not bad things because all the people sitting on the board were diverse, they're from all different communities. So they're looking to do something to make our Water Board good and strong and, and get water to the people. That was the good thing about having the board being semi-autonomous. We could do those things. We could do the repairs, we could go after money to do different things. There's a lot of things the board did that it would never have been done if it was under the administration and the council. Now, one more thing, if you have a really good mayor and a good director we don't need to be semi-autonomous. But how often does that change? How often that mayor going stay in there? He might be one term, he might be 2 terms. So even if we get a good mayor in there, what happens when he leaves? We back to the same thing again. The board has got to be able to make decisions that going get things done. Two of the most important things to me was rules and rates. You take a private company, the private company, it's not gonna be a director, it's gonna be a CEO. But he and his people prepare things to take it to the chair of the board for action. That's what gonna happen here. If we can't sink our teeth into it we're just spinning our wheels.

MEMBER GERBIG: Yeah, I have a question. What you talked about, qualified people and all, were under semi-autonomous is the, is the board director paid? Not.

CHAIR ROBINSON: The Chair, you mean?

MEMBER GERBIG: Was he, yeah, was he paid under the semi-autonomous?

CHAIR ROBINSON: Was the chair paid?

MEMBER GERBIG: No? Was still a freebie?

MEMBER RUST: No, no. Everybody was...

MEMBER GERBIG: The director was paid, that's all. Ok.

MEMBER RUST: But, you know, I'm gonna tell another thing too. When that board chair picks up that pen and signs something, that's in stone. That, that's a good thing about it.

CHAIR ROBINSON: I have a question. Were the, who appointed under that system the actual board? Was it the, was it the mayor?

MEMBER RUST: The same process. It's the same process.

CHAIR ROBINSON: Uh huh. That you, you can apply?

MEMBER RUST: The name gets submitted to the managing director and they send you to, you to council for confirmation.

CHAIR ROBINSON: So, under, under those ways of actually appointing Board of Water Supply, some, when the new semi-autonomous board was in place, were the appointees having the know-how to be able to be taken seriously in the powers that they were being given? The reason I'm asking is that if, if we, some of us have just come on, some of us have a you know a few more years on; I'm done next, in March of next year; once these things are, are actually implemented it becomes questioned in my mind as to whether or not we, as a board, would be qualified to be able to operate in a semi-autonomous manner?

MEMBER RUST: Well, that's where the, the, the mayor would, out of the names that come in, they would choose people in the different communities to make it even, but people with a, mostly my time, people in the construction industry, who do underground utilities, like myself, Dorvin Leis. They had a contractor out of Lahaina, I forget his name, he was the board chair. That would help. But you, you cannot just get those kinda abilities. You gotta get your ordinary citizens. 'Cause in the first year, they going learn, and

if they read they going know what to do. And by the recommendation of the director and his staff to the board chair they will understand more.

DIRECTOR TAYLOR: Madam chair.

CHAIR ROBINSON: Yes, you may.

DIRECTOR TAYLOR: Can I, can I...

CHAIR ROBINSON: Of course.

DIRECTOR TAYLOR: Maybe, maybe wrap some of these things together. Last week I was at the American Water Works Association National Conference in Washington DC. And when I go to these conferences I try to focus on the seminars and things that have topics relating to what's going on. There was a 3 hour panel discussion working session about how to operate your water utility; autonomous, semi-autonomous, with a board under a county government, etcetera. I spent 3 hours with some of the, you know 150 people who are the leading managers and board members of some of the largest utilities in the country. And we broke up and we had little working sessions and we worked through a lot of these issues. So I just thought it might be appropriate for me to share what, what I learned last week because I think it's really appropriate to this conservation.

CHAIR ROBINSON: Awesome.

DIRECTOR TAYLOR: The most important thing I learned when setting up a board, the board is an extension, is a representation of ownership not an extension of management. That is the first thing that everyone agreed to. And I mention that because Mr. Rust's points about construction people who know operations, that may have been right for that time. But the board, the boards who operate these are the owners. They don't represent the customers, they don't represent the operators, they represent the owners. They're like stockholders; what's good for ownership. They're not micro-managing management decisions. That's the manager or the CEO or whatever. So, again, I think it's the most important thing to remember that a board, especially if it's gonna be autonomous or strong, semi-autonomous, it's supposed to be representation of ownership not an extension of management. I think that should be in everybody's mind. I don't think you should, you should really violate from that. Ok.

CHAIR ROBINSON: So, is it, just for clarification, is ownership within the idea of water being a public trust?

DIRECTOR TAYLOR: Water being a public trust and as citizens you own the water system.

CHAIR ROBINSON: Right.

DIRECTOR TAYLOR: You own the water plant, you own the water pipes. No, we're your employees. But not from a sense that "Oh, I need a water meter on my, I'm a customer." It's more like you're a stockholder in this company and that's sort of the attitude of the board and that's the level of decisions.

MEMBER RUST: I agree with that.

DIRECTOR TAYLOR: So that, and so everyone's very clear you have to start with that concept, that the board, especially a strong board, are the owners, they're the stockholders. They're not managers.

MEMBER RUST: Yeah.

DIRECTOR TAYLOR: Ok. So that's like the single most important thing I learned that was so clear. And then through this working session I, I, here's a little of my opinion mashed with what I learned. We have to look at what, I think you, you folks probably need to look at, what are the next 10 years of challenges for the department, for the community relative to water? Are they operational? Do we need to fix things? Do we need to paint things? Do we need to build new things? I mean, what are the challenges facing us? And what's the best management or ownership structure to accomplish that? I'll throw in my 2 cents that I think the big issue that we all know is we're running out of water. We have, and I'm gonna simplify the decisions that have to be made. We have to decide whether we're gonna charge more and do more. Or charge less and do less, or somewhere in the middle. We're gonna just have to decide for Upcountry, are we gonna raise money by raising meter fees to raise all that money or are we gonna raise general rates to subsidize that? Are we gonna continue to subsidize agriculture at the expense of raising people's rates. How high are we gonna make the rates? What are we gonna do with it? Who should subsidize whom? These are the core questions that are going to set the stage for the next decade. They're not which pipe should we replace, what kind of pumps we should use, right? It's the social policy equity questions about rates versus services; about demographics. As working through these, I really came to this clarity that "That's the struggle." We know how to fix things. I think what Mr. Rust brought up is, is maybe the days

of old where maintenance was deferred but I think you'll agree your water at your house pretty reliable, your pressure is good, you get your bill on time, it's safe; operationally, I think we're in pretty good shape. The big questions are gonna face us as a community for the next 10 years are these questions of equity, rates and level of service. So I would ask that, and I would suggest that you folks focus on what's the best method to weigh these things. Is it best to have a strong board, a semi-autonomous board, a weak board, no board, have the council do it? How do we weigh? Should we raise rates? Should we lower rates, should we do more, should we do less, should this, should down country people subsidize upcountry people, should upcountry people be on their own 'cause they're so expensive? These questions have to be debated and they have to be answered. So whichever methodology is gonna best own them, answer them and make policy decisions on them; I would suggest that's the best way. And whether that's council or the mayor or a strong board or whatever, I think that's a great discussion for you but I would think that if you focus on that, that that's the challenge from ownership for the next decade I think you'll find you'll be able to take this conversation and focus it to, to, to really come to some answers. So that's what I learned and that's kinda what I'd like to bring back and, and kinda roll together.

MEMBER RUST: Ok, let me, let me roll on that a little bit. And I agree with David about the ownership. But all the other things that you talked about, you and your department have to tell us what needs to be done. 'Cause we don't know what needs to be done. You gotta tell us what needs to be done. You bring it to us and you tell us what needs to be done and we make a decision on what is gonna be done and how much money we gonna put in to it, where we gonna get the money from. All that stuff you gotta bring to us and we gotta make the, the decision. That's stuff we don't know nothing about.

DIRECTOR TAYLOR: I agree a 100% and whether...

MEMBER RUST: That's how the, that's how the...

DIRECTOR TAYLOR: Whether we come to the council or we come to the board, we're still gonna do that.

MEMBER RUST: Yeah.

DIRECTOR TAYLOR: Again, the question is what body is best to weigh how much to pay and who to pay versus what we're gonna get done. No matter what, it will always be our, our responsibility to

put together the technical options and present them to, to someone, whether it's a board or the council or both. So again, I think we're in full agreement on that.

MEMBER RUST: Ok, so let me get one more thing from you. We know we gotta take it to somebody. You as the leader of the department, who do you recommend we, you, you take it to? The board or the council?

DIRECTOR TAYLOR: Again, I think this is, the, the question is, is, I'm gonna try not to push you folks. I think you guys need to make an independent decision. I'm just really trying to focusing which ever group you think is best to own rates versus services, to own these guys should pay more to subsidize these guys or not, which ever body you think is best to represent the best interest of the people to do that, I think that's your answer. I, I said last time and I'll say again, I don't think trying to split that, I think the idea of saying that one group does the budget and the other group does the rates I think is ridiculous. I think rates and expenditures are one thing. You can't have one group talking about expenditures and the other group talking about rates. So, I think one group has to struggle and make policy decisions on the questions I asked, how much and who pays and what are our priorities from a policy ownership standpoint. And whether that's a strong board with rate and rule and budget authority. Or it's a council who currently has rate and rule and budget authority. 'Cause right now everything I said is the council's, is the council's kuleana. Ok. Maybe you think they're doing a great job, maybe you think they're doing a terrible job. But right now it's all theirs. My recommendation is either take it all back or leave it all to them, which ever you think would be best answered, these questions, for the next decade so that we have clarity. And, and whatever your answer to that is, is, I think that's what your, what your position should be but I think if you leave daily operations out of it and focus on these huge policy issues and who's best to solve them I think you'll find your answer in that discussion and that's really up to you folks.

CHAIR ROBINSON: Ok, John, I think you're next. I have something and then I just heard Don's voice.

MEMBER HOXIE: My question, Dave, was there anybody else from the county at that meeting?

DIRECTOR TAYLOR: Paul Seitz and Mike Victorino were both there. But at that meeting, no, I was the only one from the county. There were other...

MEMBER HOXIE: Is that available online or in a publication or anything?

DIRECTOR TAYLOR: It isn't because it was all discussion. It was all panel discussion and talking. There was nothing, there was no powerpoint. It's done all different ways. I mean, that is one thing I learned. I think the strong board seems to be the predominate methodology in, in the professionally run major utilities. I think City and County of Honolulu, who has a strong board; they set rates, they set rules, they have their own attorneys, they can acquire land; that seems to be the model of medium to large utilities. So, so a lot of it, and some have elected board members and things like that, but everyone, the whole gamut from under the county to full autonomy are, are, there's clearly multiple, multiple positive examples and negative examples of both. So, I think there is no best clear answer that the entire industry's come up with. Seems they depend on the community and they're all set up very differently. There's no 2 exactly alike. So, but again, that's what really they, they, they emphasize is what are your particular problems. Some groups, some areas aren't growing. Their whole areas are maintenance. So what's the best way to do maintenance? Some areas like ours where we're running out of water, you know what's the best way to deal with that? So, we were told don't copy your neighbor. You gotta look at your problems and, and see what the best way to handle your problems and that was really emphasized, that it's not good to just copy somebody else because you really have to find somebody who's in your boat.

CHAIR ROBINSON: I'd like to thank you, Dave. This is really helpful. I really appreciate this. Very, very helpful and I wanna go back to something you said, James, which is that when there's a good mayor and a good council then the need of a strong board is less. And that is a very subjective opinion on the part of probably everybody in the room as to whether we have a good mayor and a strong council. The, when I heard you say, Dave, is that you don't care necessarily whether you go the board to have guidance in these decisions around rates and expenditures, or whether you come to a strong board.

DIRECTOR TAYLOR: I want to be careful of the word "I don't care." I'm not going to put my opinion to try to influence you folks.

CHAIR ROBINSON: Ok. Ok. So...

DIRECTOR TAYLOR: I have a very strong opinion but I'm just not going to share it with you.

CHAIR ROBINSON: Not going to share it, ok. Ok. So, so you also made a statement, James, that we have turnover both of department heads and we have turnover of council members and turnover of mayors and the board has a longer shelf life than those things. So I want to keep that in our minds as we, as we look at and continue to ask questions and continue this discussion but I, I, I just wanted to emphasize that statement that you made and in terms of some of the decisions we might make and recommendations. Don.

MEMBER GERBIG: I think we have 2 things to decide here. I just pop it off. Either we're gonna have, we're gonna go for a semi-autonomous board, I mean, our recommendation, or we're gonna stay as we are. And my suggestion is we stay as we are, we do away with this board; it's useless. I mean it's like, Pat says here, we're driving in here, we're coming from Molokai, we're doing all this thing for, and then we're taking all their time up to sit on this board for some hearing that they already ruled on and I say if it's gotta go another step for appeal it should go someplace else to the whatever, the Board of Appeals now for construction or whatever it is. Put Board of Water, put Department of Water in there and appeals for water go there too because you don't have to have a water expert on this board for these appeals. It's primarily all legal. It's what legal, what's right. The only thing on these appeals that you get input from the department, their thoughts, they get input from the appellant whatever, so you don't, really you don't have to have an expert board on water to listen to these appeals is what I'm saying. So, I say do away with this board as is, this advisory board 'cause it serves no real purpose. If you're gonna serve a purpose either it be semi-autonomous or let the council have it. And I say, I rule against the council 'cause we've seen what happens with the council. They're changing rates, they're making special deals Upcountry, they're doing all kinds of things to make special rates for this group and not that group. And I say, it's not their money they're playing with. They're playing with the Board of Water Supply's money and not really looking at it as closely as they should. And I just think that's just, it should be a semi-autonomous board. What I was worried about with having a semi-autonomous board is what we talked about here. Hey, I'm not qualified to tell that guy to go repair that pump. Well, Dave solved that, answered that. We don't...

CHAIR ROBINSON: Micro-managed.

MEMBER GERBIG: We're not, yeah, we're not managing the Department of Water Supply, that's their operations, that's the department. And the other part of it that I like on the semi-autonomous is to have mandated a 10-year plan or whatever you want, 30-year plan, that's sets it all out in front of this board what has to be. So then on a semi-autonomous board, then when the department comes to do something and it's changed or in affects that plan in anyway it can be discussed and either changed or voted on, no, yes, whatever. But that's it. It's all based on this little group here with rates, rules and budget authority, you know, that's it. Pau. And we're not, and the board, semi-autonomous board is not in to managing the Department of Water. Period. I like that.

CHAIR ROBINSON: Thank you, Don. Did you have something to say, Ted? I, I saw you gest...gesticulating; I didn't know whether you wanted to add something.

MEMBER YAMAMURA: Well, I like the suggestion that was made, or the recommendation back in 2001. I don't see really any need to expound further on that, where at the, this board and I agree with Don, should either be semi-autonomous, if there is a definition for that, or terminate the board; the board is, in my mind, I agree, is pretty useless as an advisory board. And that the function of appeals can be handled anywhere.

CHAIR ROBINSON: Kelli, you have something to say?

VICE CHAIR MYERS: I do. I, I was just, I, I agree with, with all the discussion, I think, we seem to all be on a similar understanding and agreement. My question is at what point do we go through it and decide what our interpretation of semi-autonomous is gonna be? Is it gonna be based on the prior commission or is it gonna be based on prior recommendation or are we gonna tweak that a little, that's my question.

CHAIR ROBINSON: Can I respond to that?

VICE CHAIR MYERS: Yes.

MEMBER GERBIG: I agree with what you're saying.

CHAIR ROBINSON: It's a good question. My response is that Dave gave us some really important ways to guide that, which is what are, going to be the major issues that we're gonna be facing about water over the next 10 years. And what would best serve that in, in terms of a role for a Board of Water Supply. What would best serve that? And out of these discussions at the conference, where

we have the input of many different communities who have had these experiences, the notion of representing the ownership as that we are the owners of the water, we are not the managers of the water, we are the owners of the water. We represent the public trust that the water and all the money that goes into making that water come to us is actually a part of the public trust.

DIRECTOR TAYLOR: To be clear, you're the owners of the collection, treatment and distribution system of the water, not the water itself.

MEMBER HOXIE: Right.

DIRECTOR TAYLOR: The State Commission on Water Resource Management represents the public for the ownership of the water. I think that's really clear. You're the owners of the utility not the owners of the water. There's a state board that...

CHAIR ROBINSON: Right, nobody owns the water.

DIRECTOR TAYLOR: But the state board of Commission on Water Resource Management is the representatives, the public representatives of the ownership of the water. So, I mean that's, you're the ownership of the utility not of the, not of the water.

CHAIR ROBINSON: So, what might be helpful also in response to your question, Kelli, would be for us to maybe go through what were the roles of the board when they were semi-autonomous.

VICE CHAIR MYERS: Yes.

CHAIR ROBINSON: Go through them one by one and let's look at whether or not that makes sense for the needs. And Dave, you put forward your needs over the next, you know, what you see as the needs over the next 10 years. We may need to see if there are other needs besides just yours. So, it may be good to start there; look more clearly at what are the other needs that we perceive as a board and, and those kind of social policy equity questions that are not management questions but more of the ownership kinds of questions. Then we can maybe make a list of those today and as then we have that list we can reflect on that list and maybe at our next board meeting what we do is we look at our list and we may wanna add to the list over the next month of what we think are the most important things over the next 10 years and, and, and we can send those in to Gaye and Gaye can compile them and so that by next month we have a fairly comprehensive list including what Dave said to us. We have a fairly comprehensive list of what do we think is

going to be the most important needs around water for our, for our county over the next 10 years. Then as we look at those and reflect on those, then I think we can move to the next thing which is to actually look at what were the roles before in a semi-autonomous board and go through them one by one. And then look at the, at the, at the needs and see, well, do we, do we want to keep that in or do we want to remove that, or do we want to refine it or change it and, and give it a different language. Ok. Then we look at the next and then the next and the next and so that way we have a process where we're getting to look at each of those things. Yes.

VICE CHAIR MYERS: I'd like to, I'd like to propose that we don't necessarily make a specific list of, of projected needs because there are things that may occur 5 years from now that we don't necessarily know will come up; I think what this is going to be is a tool to enable us to, as owners of the system, you know, I mean, maybe we can have a framework, however, you can't say..

CHAIR ROBINSON: What, we don't have a crystal ball?

MEMBER GERBIG: I think...

VICE CHAIR MYERS: Yeah, you don't know what's gonna happen.

MEMBER GERBIG: No, I think you're, Phyllis, I think you're getting, I'm sorry, but you're getting way ahead of us. The 10-year plan is not in this, in this, what we're discussing today. We're discussing whether we want to be semi-autonomous and if it's semi-autonomous, what do we want? And my suggestion is, and I'd like to make a motion; I'm gonna screw it all up. I'm gonna make a motion that we adopt this semi-autonomous program that was in, in here in...

CHAIR ROBINSON: You're talking about Proposal 9?

MEMBER GERBIG: Yes. I'm gonna, as a starting point.

CHAIR ROBINSON: On page...

MEMBER GERBIG: We adopt this as a starting point for discussion, huh? And at, and then, I'm just gonna, I'll just say that I'd like to make this a motion that we adopt this as a starting point for discussion then we submit it to Mr. Taylor over here and he give us his opinion of what he doesn't like about it or does like about it.

CHAIR ROBINSON: Yup.

MEMBER GERBIG: And brings it back and we say we accept, don't accept or we make our own changes or whatever based on what he has submitted that he thinks is, on this proposal, this old proposal.

DIRECTOR TAYLOR: Before Don makes that, that ah, ah motion...

MEMBER GERBIG: Can we do that?

DIRECTOR TAYLOR: I, I, you can do whatever you want. I, I, I would, I would urge you not to. I think you wanna leave the director out of...

MEMBER GERBIG: Ok.

VICE CHAIR MYERS: Independent.

MEMBER GERBIG: Remove that part.

DIRECTOR TAYLOR: Yeah, I'm here to, I'm here to give, you know, some technical input about some...

MEMBER GERBIG: Ok.

DIRECTOR TAYLOR: Things to think about but I think your voice will be much stronger if it isn't mixed with mine.

MEMBER GERBIG: Yeah, what I was thinking is, is some of these things may not be applicable today. Those were the things that I was looking at. But like you say, it wouldn't be good to have you in it.

MEMBER HOXIE: I second that motion with the...

MEMBER GERBIG: Ok.

MEMBER HOXIE: Comments of Dave.

DIRECTOR TAYLOR: I don't make motions.

MEMBER HOXIE: No, no, no, I second the motion.

MEMBER GERBIG: Ok, the motion...

CHAIR ROBINSON: Alright, discussion?

MEMBER GERBIG: The motion shall, the motion will be simple; to adopt the Chapter 11 Department of Water Supply, Section 8-11, Organization as outlined in the 2001-2002 Maui County Charter Commission Revised Final Report.

CHAIR ROBINSON: So this is...

MEMBER HOXIE: Page 23.

CHAIR ROBINSON: This is Proposal 9 in that final report which says re-structure the Department and the Board of Water Supply to give it more autonomy. Is that correct? Is that the, is that what you wanna...?

MEMBER GERBIG: No. I wanna, I wanna, page, from page 23.

CHAIR ROBINSON: I don't have those pages.

DIRECTOR TAYLOR: It's the same thing you guys are talking, you guys are talking about the same thing.

MEMBER HOXIE: That's right, yes.

DIRECTOR TAYLOR: Proposal 9.

MEMBER HOXIE: Say yes.

MEMBER GERBIG: Yes, yes, yes.

CHAIR ROBINSON: Proposal 9...

(laughter)

CHAIR ROBINSON: In which the commission recommended that these are now semi-autonomous because the rules and then there's one rule that says power to set rates, adopt regulations, make decisions regarding the Department of Water, ah, development of water supplies, um...

MEMBER GERBIG: Yep, as written.

CHAIR ROBINSON: Reviewable by any other county authority, etcetera, etcetera. So, so you're saying let's look at each of these and decides whether we want them or not.

MEMBER GERBIG: Wait.

CHAIR ROBINSON: And I'm...

MEMBER GERBIG: Put the whole thing in there as a whole.

CHAIR ROBINSON: Right, right.

MEMBER GERBIG: And then we can discuss it and see.

CHAIR ROBINSON: Ok, so that, that's your proposal?

MEMBER GERBIG: Yes, that's my proposal.

CHAIR ROBINSON: That's your motion...

MEMBER GERBIG: That's correct.

CHAIR ROBINSON: And I had second for that motion from John.

MEMBER GERBIG: Alright.

CHAIR ROBINSON: Before we vote is there any discussion about that motion?

MEMBER RUST: Yeah.

CHAIR ROBINSON: James.

MEMBER RUST: With that motion I'd like to just add in discussion a couple of things. The Water Department does not survive on taxes but on water rates, ok? The next 2 things, the rules and the ability to raise or lower rates.

MEMBER GERBIG: Yeah, Rusty...

MEMBER RUST: That's the meat of, of the...

MEMBER GERBIG: Yeah.

MEMBER RUST: Of the board.

MEMBER GERBIG: Yeah, but we can, we can beat it out. We adopt this for now, right or wrong, we adopt it. We say, ok, now let's look at these things that you're concerned with, are they in there or aren't they in there. That, that's all. So we can do that later, not enough discussion.

CHAIR ROBINSON: Dave?

DIRECTOR TAYLOR: Madam Chair, I, I have more of a parliamentary comment.

CHAIR ROBINSON: Thank you.

DIRECTOR TAYLOR: If you folks are planning on passing something today, I can certainly understand that you're gonna go about this way.

CHAIR ROBINSON: Make, make a motion.

DIRECTOR TAYLOR: But is this is gonna go off, if you're gonna discuss this over the next few meetings and you're gonna have, what you're gonna have an open motion for 3 meetings? And everyone's gonna lose track if there's, if there's modifications to it, I mean, it, I've just never, you can ask Mr. Kushi, but I've really never heard of, of something that's meant to be a long term discussion being discussed under a motion, 'cause I don't know if a motion survives meetings to the next meeting. I, I, I, I think you're gonna get really, really confused if you try to open this as a motion and try to discuss it for the next 3 meetings. I think everyone's gonna get lost over, over where you are.

MEMBER GERBIG: No, I'm saying the motion is, is to adopt this as is. And then if, so then, isn't, is that, can we do that? In other words, a starting point; somehow a starting point to say it appears that everybody wants to go semi-autonomous. I'm assuming, I'm making that assumption.

DIRECTOR TAYLOR: I'm just using my, my very minimal knowledge of Roberts Rules of Order; it seems that motion passes this issue is over. And this board just decided to support this and you're done.

MR. KUSHI: No, it's not.

MEMBER GERBIG: I see, yeah. Is that right, Mr. Kushi?

MR. KUSHI: No, this motion as I understand it is to adopt this as a starting point.

DIRECTOR TAYLOR: Ok.

MR. KUSHI: It's not a final recommendation from this board to the Charter Commission.

DIRECTOR TAYLOR: That's why we bring you. Ok.

MEMBER GERBIG: Yeah, that's correct. You agree with that then, Dave?

DIRECTOR TAYLOR: I'm just saying I...

MEMBER GERBIG: Yeah, yeah, that basically...

DIRECTOR TAYLOR: I'm not even sure you need a motion to do that.

MEMBER GERBIG: Is a starting point.

CHAIR ROBINSON: Ok, so the motion is that that we use the current autonomous language from Proposal 9 as a starting point and that we go off of that. So, we're still in the discussion phase of the motion. Is there other comments about that? John?

MEMBER HOXIE: Yes. I think this is a good starting point. I think that we all need to step back and look at the big picture, like Dave said about we are the owners of water system, the delivery system, the sources, the rates, we represent our community in this whole equation and I feel that for the long term continuity of making water available for people on Maui at a reasonable cost, it's not going to be free, that the semi-autonomous system is the way to go. All the other counties in Hawaii have that system. They haven't vacillated between what we have on Maui. And I think that, I think that it's a good place, it's a good starting point for us in discussion and I think this is the way we need to go.

CHAIR ROBINSON: Other discussion? About the motion.

MEMBER GERBIG: By making this motion, does this, does this, it makes, it sort of make, accepting this motion whatever, makes the assumption that we support a semi-autonomous board, is that, everybody understand that, does it not? I mean we support, our, this board supports the semi-autonomous board or whatever.

MEMBER HOXIE: At this point, yes.

MEMBER GERBIG: That's a yes.

MEMBER HOXIE: We're not final yet.

CHAIR ROBINSON: No.

MEMBER HOXIE: We're gonna keep chewing on this thing and I think this has been a good discussion today; we've all learned something.

MEMBER GERBIG: So, that's still out in the air, whether we stay where we are or we recommend that they abandon this advisory board, then; that's still up in the air...

MEMBER HOXIE: Right.

MEMBER GERBIG: That hasn't been decided, right?

CHAIR ROBINSON: Ok. And, and Ed...

MEMBER GERBIG: Mr. Kushi.

MR. KUSHI: Yeah, just, just a couple, not so much on the merits but a couple of comments before you vote on this; which I think is a good starting point, either way, could say Proposal 9A as a starting point, I don't care. But just wanna let you guys know that whatever you come up with at the end of the day, let's say it's, it is like Proposal 9, what if the administration through the mayor's office submits Proposal 9A, or just says I'm totally against what the Water Board does. And it's within their...

MEMBER HOXIE: Sure.

MEMBER GERBIG: Yeah.

MR. KUSHI: You know, to do it. I'm not privy to what they're gonna do. Just to let you guys know it might, the Charter Commission might say oh, Water Board says this, department says this or the mayor's office says this, what am I gonna do? Ok. It's gonna be left up to the commission. That's step one. Step two is now whatever the commission presents goes to the council. The council may put question 9C, for whatever it is. So, again, you guys were appointed, nominated by the mayor, approved by the council, ok. That's how the process works. But you guys are now sitting board members, you can do what you want. I'm just advising you, don't go crying when something like this happens.

CHAIR ROBINSON: So...

DIRECTOR TAYLOR: I have a little follow-up to what he just said.

CHAIR ROBINSON: Oh, I do too.

MEMBER RUST: So, let, let me understand one thing, Eddie.

CHAIR ROBINSON: Wait a minute, James. We have to do it in the order of how the voices got raised but Dave, I think you were first. Go ahead and respond to what Ed said.

DIRECTOR TAYLOR: Ok, just for you information, we're talking about this today, tomorrow is a furlough day, Monday I've been asked to speak about this at the Charter Commission and Tuesday, this is on the agenda at Water Resources Committee of the County Council. So, my next 2 days of work I will also be talking about exactly this issue with the Charter Commission and then the County Council Water Resources Committee meeting. So I just want to let you folks know that as Ed was saying there's all these other groups involved and they are all actively talking about it in the next few working days. So, I just figured I would let you guys know that you're not the only ones discussing this.

CHAIR ROBINSON: Great. So, I wanna respond to that and to, to what Ed said. And then James, you. So, our understanding is that if we, if we adopt, I'm gonna read in to a little bit of what your statement is; is that we can adopt Proposal 9 and the very body to which that goes to has the ability to...

MEMBER GERBIG: Throw it out.

CHAIR ROBINSON: Throw it out and put forward their own.

MEMBER GERBIG: That's right.

MR. KUSHI: The Charter Commission.

CHAIR ROBINSON: And so, what I'm reading into what Ed is saying is that we may want to think about that very, very clearly and maybe have our recommendations be such that, that we offer something that really makes a strong case for why we need to exist that is beneficial not to just us, who don't want to come to meetings because we don't have any power, but it serves the overall needs of everybody; so that we're not just serving ourselves because we don't wanna sit in on meetings and not have any power. So, so, just, that's all I wanna say. James.

MEMBER RUST: So Eddie, let me understand something. What this board puts together does go to the mayor? It goes to the Charter Commission. Ok, so, the, the administration can put in their own proposal?

MR. KUSHI: Right.

MEMBER RUST: Versus ours?

MR. KUSHI: Right.

MEMBER RUST: Not put in theirs and throw ours out?

MR. KUSHI: The Charter Commission has adopted this policy or procedure that they'll take input from wherever. And they've asked all the boards and commission, you know, now's your time to, especially if your board is created by the charter.

MEMBER RUST: Yeah.

MR. KUSHI: Now's the time to look at it. And they've asked all the departments too.

MEMBER RUST: Ok, let me understand another thing. When we went from semi-autonomous back under the administration and the council, wasn't that put on the ballot? Got voted on by the citizens of this county?

MR. KUSHI: The last, the 2000 report, yeah, yeah, it was on the ballot question 9 and 9A.

MEMBER RUST: So, if our proposal gets in there, will it go on the ballot and out to the citizens to be voted on?

MR. KUSHI: If your proposal is adopted by the Charter Commission.

MEMBER RUST: If it's adopted by the Charter Commission.

CHAIR ROBINSON: Who's made up, who makes up the Charter Commission?

MR. KUSHI: Just eleven people on there. All nominated by the mayor, approved by the council.

MEMBER YAMAMURA: It's on-line if you wanted to know the names.

CHAIR ROBINSON: So, they're nominated by the mayor and approved by the council.

MEMBER GERBIG: The list, list on the Charter Commission? I know Wayne Hedani. That's all.

MR. KUSHI: Right.

CHAIR ROBINSON: What's that?

MEMBER GERBIG: Wayne, Wayne Hedani. Anyway. Same thing, yeah. There's so many steps in this thing that's all, whatever we do here can be thrown out. Doesn't make difference, I say. Like I said, and this motion is it's a starting point and what I might do next week when they come to Lahaina, I might go down there and testify as person, my own individual on this. I can do that, right, Mr. Kushi?

MR. KUSHI: Of course. I expect you there.

CHAIR ROBINSON: And, and can, can board members...

MEMBER RUST: When are you coming to Kula?

MR. KUSHI: Ah, not, we went to Pukalani already.

MEMBER RUST: So, you're not coming to Kula community? Oh, you not giving us a chance.

MR. KUSHI: Maybe the next round we go up Kula then.

DIRECTOR TAYLOR: Pukalani is that far from Kula, huh?

MEMBER RUST: Right. It's a good distance.

CHAIR ROBINSON: So, so in the, in the Tuesday Water Resource Committee meeting, are, are we board members allowed in that meeting?

DIRECTOR TAYLOR: You can come sit and watch, and you can testify as individuals.

CHAIR ROBINSON: We can.

DIRECTOR TAYLOR: And you can ask Mr. Kushi, but I believe you could even nominate one of you to represent board positions and say "I'm here representing the board", if you vote for something, I think that's another option.

MR. KUSHI: If the board authorizes it.

CHAIR ROBINSON: What do you people think about that?

MEMBER HOXIE: I think we should wait and see.

CHAIR ROBINSON: So not, don't, don't even though the...

MEMBER HOXIE: I might go just to find out what's going on but the...

CHAIR ROBINSON: Yeah, but not go in with a position...

MEMBER HOXIE: No, 'cause we're still working on it.

CHAIR ROBINSON: We're still working on it.

MEMBER GERBIG: Yeah, we're not, this isn't going any place right now.

MEMBER HOXIE: I have one more comment, you know, and you know the council may do something, I, I, I expect the administration is gonna have no change and the council will probably have no change but you know, to me, we're trying to do what we think is best for Maui.

CHAIR ROBINSON: Right.

MEMBER HOXIE: And if they don't agree with us, hey, that's the way the system works, you know. So, we give it our best shot and may end up the way it is right now. We don't know.

CHAIR ROBINSON: Well, I, I would like to, we're still in discussion about the motion, so I'd like to refer back to the motion. And, and I had made a proposal, it wasn't a motion, I made a proposal about a process and part of that proposal about the process was to have some period of reflection on what does the county need in terms of the water system over the next 10 years and Kelli responded that we, we don't really know what the, what the needs are going be. We've had some input into that as, you know, that there's going to come a time where we're going to have to have a discussion about rates. And, and that is going to have to do with the water meter list Upcountry and it's gonna have to do with whether we raise rates to subsidize the cost of those meters and all those kinds of questions are going to be debated. So, I don't, I don't want to change what you're saying, Don, a 100%. I think that's a good idea.

MEMBER GERBIG: I'm not, yeah, I'm not in the plan, you're planning things. I'm not planning things. I'm just saying this is, this is the organizational chart, this is the way, under, under being semi-autonomous I recommend in my motion that this be it. The 10-year plan and all of that stuff comes later by that if

there's a semi-autonomous board. They make, they set, they set the plan or the department set the plan and board, the semi-autonomous board approves it. And at that time, because we, my opinion, is we don't know all of the facts as well as the department itself. The department ought to write the plan and when we get to that point or if they get to that point, and there is a 10-year plan maybe it's a 20-year plan but whatever the plan is the department should come up with it, then the board should scrutinize it, the semi-autonomous board; add or subtract what they think is, is correct or have the department justify it, whatever. That's what I'm thinking, you know, on the plan.

CHAIR ROBINSON: Right, but, but you're, you're putting forward planning...

MEMBER GERBIG: I'm not doing any planning...

CHAIR ROBINSON: In a different, in a...

MEMBER GERBIG: I'm not doing any planning.

CHAIR ROBINSON: Yeah, but the plan, but you're, you're putting forward the concept of planning and giving a word to what I'm calling...

MEMBER GERBIG: Yeah, I'm just saying that, that...

CHAIR ROBINSON: I'm calling reflection on what we have learned by being part of this board over a number of years, what have we learned in terms of reading water use development plans; we've seen some of them, we've seen the Central plan. So, we have some idea...

MEMBER GERBIG: Oh, I'm sure, but...

CHAIR ROBINSON: As to what may be some of the needs that we would have to be able to contribute to; our power to contribute to. That's what I'm saying. I'm not saying that we come up with a 10-year plan. That's your language. My language is let's reflect on what may be some of the needs for our decision-making. Then we look at the actual current semi-autonomous proposal and use the, the reflection as a guide. So, I would like to just add to your motion that in addition to looking at the Proposal 9 as a semi-autonomous that in addition we do a little reflection about what we perceive might be the needs. Not a planning exercise 'cause that's not, we're not capable of that but it gives us a chance to do a little reflecting based on what we've learned as a board sitting here, reading water use development plans, going to Lanai, I mean

we have some sense of what some of the future needs might be and how would a board best serve those. Other comments on that?

MEMBER YAMAMURA: I think we need to stay with the macro issue which is whether or not we're gonna adopt this plan as a starting point and not get into the minutia of the details yet. And perhaps that can be built into the mechanisms and the rules and procedures that go into whether we're gonna be semi-autonomous or not. And, I think that's the gist of your motion if, if I'm correct, is, is just to get this as our starting point.

MEMBER GERBIG: That's right, yeah, starting, that's great.

MEMBER HOXIE: I call for the question.

MEMBER YAMAMURA: I'm not speaking against what you're saying.

CHAIR ROBINSON: Ah, Gaye?

MS. HAYASHIDA: Can I get this motion clear? This is how I understand your motion. Member Gerbig had made a motion to adopt Proposal 9 as stated in the 2001-2002 Maui Charter Commission Revised Final Report as a starting point for discussion. Is that how you want, is that correct?

MEMBER GERBIG: Yes, that's correct.

MS. HAYASHIDA: Ok. That's all I just, just need.

CHAIR ROBINSON: Right, and I'm asking for a (sic) addendum to that motion which would add that overlay of the big picture..

MEMBER GERBIG: I, I'm not gonna put that in.

MEMBER HOXIE: Well, that, she's making a motion.

CHAIR ROBINSON: I'm asking for an addendum to that motion.

MEMBER HOXIE: Is there a second?

(silence)

MEMBER HOXIE: I call for the question.

MR. KUSHI: On the main motion?

MEMBER HOXIE: On the main motion.

CHAIR ROBINSON: Ok, so the discussion is, is finished and there's been no second to my proposal for the addendum, so what we're asking for is an actual vote on the motion to use the current Proposal 9 to re-structure the department and board to give it more autonomy as a starting point for our discussion for the next meeting. Is that correct?

MEMBER GERBIG: Correct.

CHAIR ROBINSON: Ok, is there a second to that motion. I believe we already had a second?

MEMBER GERBIG: It's already, John said it.

CHAIR ROBINSON: Ok, so all those in favor?

(ayes)

CHAIR ROBINSON: Opposed?

(the chair raised her hand for a nay vote. 6 ayes, 1 nay)

DIRECTOR TAYLOR: Madam chair?

CHAIR ROBINSON: Yes.

DIRECTOR TAYLOR: Because it sounds like this discussion is coming to an end and it sounds like you're probably gonna take it up next meeting and everyone's gonna think about this. While you were talking I thought about one more thing I learned at my conference that I thought might be helpful.

CHAIR ROBINSON: Ok.

DIRECTOR TAYLOR: You allow me? A lot of the board members from the strong semi-autonomous boards were very adamant that that's the best way to run it. And so in order to do the other side, I was playing devil's advocate and I was asking them a couple of very hard questions that I just feel I need to share because no one really answered them in any adequate way. And, and the big question I asked is about development. I said what if the city council wants to zone a certain area and they're gonna put in roads and sewer lines and drain lines all under the city government. And that's how they wanna do economic development. And this autonomous water board says, "We don't wanna do that. That, that's too expensive for us to serve that area." I said, how do you deal with

that, how do you deal with the fact that your, one of, you have one utility that's on its own and all the other utility functions are under the, are under the local government. And what if they refuse to coordinate? Who's in charge? And nobody really had an answer to that. So, I just throw in because there was a lot of discussion, pro semi-autonomous and no one really said anything about pro county government. And I'm just really, I would've thrown in, one of the pros about county government running water is they're also in charge of zoning. So now you have the county council members who said, "Look, we zoned it, now we must have some responsibility to get them sewer and water and roads and stuff." Rather than saying, "Hey, we zoned it but you know that water board they won't get water up there, it's their fault." So, I just wanna throw that out as something that I really pushed these guys on and was really the only question that no one answered, not only to my satisfaction but nobody really answered at all about how they do that. So, I'm not an expert; I don't know how city and county does it; there may be some other answers but it's just something that I tried to get to the bottom of and I couldn't. So I just, I just wanna throw that out for you guys to think about.

MEMBER HOXIE: I have a question on that. Isn't the General Plan supposed to do that? Isn't it supposed to guide, guide the county and also guide the board?

DIRECTOR TAYLOR: It is supposed to. Now whether or not the board listens or not, now let's just say it's a strong semi-autonomous board and, and let's say they wanted to, the top of Haleakala, city council decides to make a city in the clouds and the board says, "We can't pump water from Haiku, it's gonna bankrupt us." So y'know, what happens then? And so I was just pushing these guys on sort of that question. And clearly everyone's doing it; there must be some answers but I couldn't really find an answer from these guys so just wanted to share that.

MEMBER HOXIE: Yeah.

MEMBER GERBIG: Isn't there, isn't there a, I'm gonna talk, Oahu, isn't there a, a, these other counties, don't they have a, the board approve these developments someway?

DIRECTOR TAYLOR: I'm not exactly sure and that's why I'm...

MEMBER GERBIG: Yeah, there must be some method that they use.

DIRECTOR TAYLOR: I don't know how to answer that.

MEMBER GERBIG: Maybe Rust...

MEMBER RUST: Development, say in the County of Maui, whether it be in Maui, Molokai or Lanai, goes through the permit process here. In doing so, it goes through all the departments.

MEMBER GERBIG: The Board of Water, the Water Department.

MEMBER RUST: Now, if it's a, if it's a sensible development and the community is for it, then the board or the Water Department is automatically in it.

CHAIR ROBINSON: Automatically...?

MEMBER RUST: Automatically in it.

DIRECTOR TAYLOR: But I think the point I was making is, let's just say that in order to get "in it", let's say that there needs to be a substantial upfront capital investment; we need to put in lines and tanks and develop a well and we would get that money back from meter fees but at the time you make that decision you don't really know if anyone's ever going buy that house, right? I mean, let's, you don't really know that's gonna happen and yet you gotta, you gotta float bonds, you gotta dedicate those capital, hoping that there'll be water meter fees. And that's something right now that the, the council struggles with. Y'know, should they zone it, should they upfront the costs, etcetera, etcetera. So, it's just something that, that if, if the rest of the county government is doing and the Water Board says, "Nah, we don't wanna take that kind of risk with our money." You could just end up with this, with this situation of, of essentially the council and the Board of Water Supply...

MEMBER GERBIG: In limbo.

DIRECTOR TAYLOR: In, the whole, the whole thing being in limbo because you need everyone to be together. So that is one of the, that is just clearly one of the benefits that if council approves zoning and council approves CIP for sewer and council also approves CIP for water, that they own all the decisions, for good or for bad. It may be very bad. But I'm just saying that there is, there is some benefit to having one body who's in charge of all the utilities and zoning. And I just think that that is something that you know, we should all recognize that there is a, there is a positive aspect to having water be tied together with all the other utilities in the county council, who also controls land use entitlements. So I just wanted to throw that out there because

again, it's something that wasn't talked about that we should also just give some great or little weight to as your discretion.

CHAIR ROBINSON: Ok, any other comments on this process? Ok, and I...

MEMBER YAMAMURA: Oh, excuse me. Phyllis?

CHAIR ROBINSON: I believe we're going to...Yes?

MEMBER YAMAMURA: Excuse me. So, continuing on, are we now gonna submit our comments to Gaye? Was that the ah...suggestion?

CHAIR ROBINSON: Well, no, you, you, you, I, I, I proposed that as, I proposed that and, and it was not seconded so.

MEMBER HOXIE: I think what we're gonna do is we're gonna, we're gonna, all of us are gonna kinda study this a little bit more and be able to continue our discussion at the next meeting.

CHAIR ROBINSON: Right, and we're, we're studying specifically what it would mean to be a semi-autonomous board. Those, and, and will comment on each duty and, and make that our discussion.

MEMBER GERBIG: Yes, if, yeah, if we go with this, with this or we say, alright, yeah, so basic, next meeting we'll discuss if there's any changes we wanna make to it that we know of. And, then theoretically, this is what we recommend. Right?

CHAIR ROBINSON: Yeah.

MEMBER GERBIG: Yeah, ok, so. Next...

CHAIR ROBINSON: And, and it doesn't mean that we can't have other discussion about, about the, the, our recommendations. We don't, I mean, I think we can be somewhat flexible to add information into the discussion that would help us with our decision-making.

MEMBER GERBIG: To sell it?

CHAIR ROBINSON: To either sell it or, or revise it because I, I'm personally gonna go to the Tuesday meeting just so I can hear what the Water, what the, what that committee has to say. And I may provide the rest of you with what I learned from that, or any of you decide to go. But we can't speak at that meeting, we can only...

MEMBER GERBIG: As individuals we can.

CHAIR ROBINSON: We can speak as individuals.

DIRECTOR TAYLOR: Give your 3 minutes.

CHAIR ROBINSON: And, be clear that I'm not speaking for the Board of Water Supply, I'm speaking as an individual citizen.

DIRECTOR TAYLOR: I have one more suggestion for you in this meeting. I would suggest, if you think about this, you don't have a whole lot more meetings 'til you wanna send something to the Charter Commission.

CHAIR ROBINSON: Right.

DIRECTOR TAYLOR: So, I would, if I was the board, I would lay out when those meetings are; at that last meeting you wanna have a letter in front of you that you're gonna vote on whether or not to send or not; which means the meeting before that you gotta finalize that letter, which means the meeting before that you gotta finish your discussion on that letter. Now, that's, you may already be there. So I would suggest that you lay out a meeting by meeting detail of what you're doing at these meetings to make sure you're gonna make it and you may need to have a special meeting, I, I...

CHAIR ROBINSON: Don't know.

DIRECTOR TAYLOR: You don't have a whole lot of meetings between now and then from what I was putting together in my head, so I would, I would suggest you do that before you move on.

CHAIR ROBINSON: Can, Gaye, can we ask that, that you take from the recording, we've already been told by, by Ed about what the, the schedule is.

MS. HAYASHIDA: Ok, I, I think...my understanding, my notes says by September you really should have something for the Charter Commission.

MEMBER GERBIG: By that meeting.

MEMBER RUST: We have 2 meetings before that?

MEMBER HOXIE: We may have to meet special.

MEMBER RUST: We should try to wrap it up at the next meeting and have the letter ready at the August meeting.

MEMBER GERBIG: A draft letter.

CHAIR ROBINSON: So, write up, have a, have a write-up by the end of our July meeting?

MEMBER RUST: Yeah.

CHAIR ROBINSON: And then final draft by our August meeting?

DIRECTOR TAYLOR: It sounds like if not, you're gonna need a special meeting between your July and August meeting to finalize it. You're gonna need that final letter by the August meeting.

CHAIR ROBINSON: So, let's see where we are at the end of our July meeting.

MEMBER RUST: I think between now and our July meeting we can, by just this, what we have here and I think when we come back in July everybody should have their mind made up where we're going.

CHAIR ROBINSON: So, so you had also said that maybe we should put out in between now and then some of our ideas. That was some of what I was wanting to...

MEMBER GERBIG: Yeah, ok.

CHAIR ROBINSON: Add the addendum about was to have some period of reflection.

MEMBER GERBIG: But that would, the addendum basically would, would switch to the items from your addendum would be, may be in this letter, the front letter to the, our recommendations. I'm assuming that this charter amendment here would be submitted in some in form or another. We would have a letter in, in front of it justifying our position on it or...?

CHAIR ROBINSON: Yeah, usually there's a cover letter that goes on there.

MEMBER GERBIG: Yeah, cover letter, I mean. And all that information would be in the cover letter. Is that correct?

MEMBER HOXIE: And, and our recommendation may also be that we do away with the Water Board.

MEMBER GERBIG: Yeah.

MEMBER HOXIE: So, need to think about it.

MEMBER RUST: Well, under the recommendation if we do away with the Water Board that means we're just saying let the council have it.

MEMBER HOXIE: Yeah, right.

MEMBER RUST: So it could go either way.

MEMBER HOXIE: One or the other.

MEMBER EASON: And I think that's what Phyllis wanted us to reflect on it; to really think about it and reflect as to how we feel towards all of these things.

CHAIR ROBINSON: Right, right and, and does, do, based on some of the needs that we perceive, is that the best thing for our community is to have that be in front of the council as opposed to having a semi-autonomous board. So, in effect, we're open to having Gaye receive from each of us; we won't see the compilation of that until the next meeting, because we're not allowed, because of the Sunshine Law...

MEMBER GERBIG: But she can...

CHAIR ROBINSON: We're not allowed to go back and forth with each other.

MEMBER GERBIG: If she sends it, we send it to you or to her, you can give everybody a copy, can you not?

MS. HAYASHIDA: As long as...

CHAIR ROBINSON: Can you give a copy before the meeting?

MS. HAYASHIDA: Yeah, I guess so.

CHAIR ROBINSON: You can?

MS. HAYASHIDA: As long as you don't respond...

CHAIR ROBINSON: As long as we're not having a discussion online.

MEMBER GERBIG: Yeah, we're not responding to each other.

MS. HAYASHIDA: Yeah, exactly. And you'll see my little disclaimer in red, do not respond to this email.

CHAIR ROBINSON: Right, ok, ok.

MEMBER GERBIG: Is that right, Mr. Kushi?

MR. KUSHI: I don't know about it.

CHAIR ROBINSON: What's that, Ed?

MEMBER GERBIG: No, I'm making sure he's keeping track of our procedures...

CHAIR ROBINSON: Oh, keeping track of our procedures.

MEMBER GERBIG: That we're not telling each other stories.

DIRECTOR TAYLOR: And, and Gaye, I have another question. Maybe this might help. Could you also make a draft letter to the commission which based on the motion they made today, I mean just put draft in watermark on it, has, we the Board of Water Supply recommend that you blah, blah, blah and then have, then they can red mark that as they go and you can keep notes on it so that as they're discussing we can be writing the letter, 'cause time is short and so that way they can start with that. Can you do that?

MS. HAYASHIDA: Yeah, sure.

MEMBER GERBIG: A letter in progress.

CHAIR ROBINSON: A letter in progress.

MEMBER GERBIG: Can you print this thing out, can you put this thing in Word?

MS. HAYASHIDA: Um, it's a PDF so I don't have it in Word.

MEMBER GERBIG: Oh, I have to do it, you mean.

DIRECTOR TAYLOR: Sure there was a, there was a question from Mr. Rust about when the meeting Tuesday, the Tuesday council meeting is the Water Resources Committee meeting, council chambers, 9:00 a.m.

MS. HAYASHIDA: If you want I can, I have a copy of the agenda, if you, I can mail it, oh well,

DIRECTOR TAYLOR: There are 2 items on the agenda, the first is the Lanai Water Use Development Plan and the second is this issue of, of autonomous, semi-autonomous, you know, whatever that is, however that is written up. So both those, those are the 2 issues on Tuesday morning, so.

MEMBER RUST: Ok.

MS. HAYASHIDA: I can't mail you because tomorrow is furlough and probably won't get it.

MEMBER RUST: I'll just show up.

MS. HAYASHIDA: Yeah, yeah, yeah.

CHAIR ROBINSON: So, 9 a.m. in council chambers.

DIRECTOR TAYLOR: That's correct.

MEMBER YAMAMURA: I doubt it. Lanai Water Use Development Plan is gonna go almost all day I would imagine.

CHAIR ROBINSON: The Lanai one?

MEMBER YAMAMURA: Yeah.

CHAIR ROBINSON: Yeah.

MEMBER YAMAMURA: The testimony is gonna be occurring and...

CHAIR ROBINSON: So...

MS. HAYASHIDA: Oh, just for the record.

CHAIR ROBINSON: Yes.

MS. HAYASHIDA: The vote on the last motion to adopt Proposal 9 was 6 ayes and 1 nay, just for the record.

CHAIR ROBINSON: Ok. And may I, I know that we decided even though it wasn't our decision at the last meeting that the minutes would be summarized. I'm just wondering if this section...

MS. HAYASHIDA: Could be verbatim?

CHAIR ROBINSON: Could be verbatim.

MS. HAYASHIDA: Sure, no problem.

CHAIR ROBINSON: Because it's, it, it's hard to interpret everything that was said...

MS. HAYASHIDA: Well, make it easier is each one will have headings. I think that's easier then you can just go to that specific, what subject you want.

CHAIR ROBINSON: Right. And when do we usually get those minutes?

MS. HAYASHIDA: Depends on, I can get it to you within a couple weeks at the most.

CHAIR ROBINSON: Ok, ok. That'll be great, 'cause that may be helpful in terms of the things we send to Gaye as to, is to actually look at the deliberations 'cause you know couple weeks go by, we kinda forget, so that would be great.

(at this time the discussion on recommendations to the Charter Commission ended for this meeting.)

Receipt of Board Member request for agenda items to be placed on future agendas.

1. Appeal No. 10-01
2. Charter Commission Recommendation(s) Letter to be placed under Unfinished Business. Mr. Kushi suggested that for the next meeting he will work with Ms. Hayashida on a Ramseyer format of Proposal 9.

COMMUNICATIONS

None.

DIRECTOR'S REPORT

Director Taylor announced that at the Council's Water Resources Committee meeting next Tuesday, there will be an overview of the Water Director's draft of the Lanai Water Use and Development Plan. This is to bring the council members up to speed on what has happened to date and no action will be taken. He also mentioned that Council Member Victorino is planning to have a meeting on Lanai in August on this matter.

DIVISION REPORTS

None.

ADJOURNMENT

There being no further business the meeting was adjourned at 10:40 a.m.

Prepared by:

Gaye Hayashida
Commission Support Clerk

Approved by:

David Taylor
Director