

County of Maui Water  
Supply

**BOARD OF WATER SUPPLY**

**COUNTY OF MAUI**

**REGULAR BOARD MEETING**

Held at the Kahului Shopping Center, Kaahumanu Avenue,  
Kahului, Maui, Hawaii, commencing at 9:00 a.m. on  
December 17th, 2002.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354

IWADO COURT REPORTERS, INC.

**A P P E A R A N C E S**

**BOARD MEMBERS:**

Mike Nobriga, Acting Chairman

Kent Hiranaga

Ginnie Parsons

Howard Nakamura

Clark Hashimoto

STAFF PRESENT:

David Craddick, Director

Ed Kushi, Corporation Counsel

Herb Kogasaka

Cathy Howard, Board Secretary

IWADO COURT REPORTERS, INC.

MR. NOBRIGA: Call the regular meeting of the Board of Water Supply to order. It's Tuesday, December 17, 2002. It is a little after 9 a.m. at the Kahului Shopping Center.

In attendance for today's meeting we have board member Virginia Parsons, board member Howard Nakamura, board member Kent Hiranaga, board member Clark Hashimoto, and board member Mike Nobriga. Also in attendance is our current still serving as our board -- as the water director, David E. Ray Craddick, honorable corporation counsel Mr. Kushi, the board

secretary, the vivacious Cathy Howard. Members of the public.

Moving to our agenda, I would like to ask the members to give approval and receive minutes of our regular board meeting of November 7, 2002. The motion is in order for its receipt, including the two pages of corrections addendum attached to it.

MR. HASHIMOTO: So moved.

MR. NAKAMURA: Second.

MR. NOBRIGA: It has been moved by Clark

Hashimoto and seconded by Howard Nakamura to receive

the minutes. Any discussion? All those in favor,  
  
signify by saying aye.

(A chorus of ayes.)

MR. NOBRIGA: Opposed, nay.

(None.)

MR. NOBRIGA: Motion carries.

I would like to open up the floor for  
  
testimony from the public, be it oral, verbal or  
  
written.

Moving to our very light agenda, take up Item

V, Director's Report 02-56, recommended method of

pro-rating water distribution costs. Mr. Craddick.

MR. CRADDICK: Okay. We met with Mr. Kealoha and six areas were identified that could be used to spread distribution costs over a wider user group than requiring the first user to pay everything and later persons are added on at no charge.

Those methods are basing it on the flow requirement which includes fire flow; basing it on average day usage; area of subdivided lots; off-road frontage action; per subdivided unit; and the ability

to pay. And listed there are some pros and cons and I won't go into those, but our recommendation is to use a combination of 1, which is basing it on the flow requirements, and 5, which is per subdivided lot and alter that 5 per subdivided unit to the maximum number of lots, meaning that if somebody can divide into 6 lots but for whatever reason they only subdivide into 4 lots, they still have to pay the 6 lot pro rata share.

The costs would be paid up front or interest plus administrative costs would be added when the lots

are subdivided at the owner's leisure later on. That means that they won't have to pay -- people who are not subdividing that benefit don't have to pay up front if they don't want to, but later on when they finally do decide to subdivide they would have to pay interest plus administrative costs, keeping track of all of this.

And then we're recommending that the number of lots allowed to participate at a minimum is one lot and at a maximum 10 lots, and the costs should be based on actual costs of the actual project rather



than using something like the Water System Development fee where we're using an average equity in the distribution system because distribution are very related to the area that you're working in.

So if the board would like these recommendations, then I guess the next step we would do is actually taking these criteria or whatever criteria you choose and actually preparing a rule to come back to the board for review.

MR. NOBRIGA: I think we should -- I would

like to see this worked on going forward and at this

point in time I think it needs to be referred back to the department for formal proposal on rule making that shall be sent on to create an ordinance with the County of Maui and the process that should be adopted, that will be in effect come January. Any other comments from the board? So ordered.

MR. CRADDICK: Are you agreeing with the recommendations that we have there?

MR. NOBRIGA: Yeah.

MR. CRADDICK: Okay. Thank you.

MR. HIRANAGA: Question.

MR. NOBRIGA: Yes, Kent.

MR. HIRANAGA: Who is Mr. Kealoha?

MR. CRADDICK: Where is he?

MR. HIRANAGA: Who.

MR. CRADDICK: He came from the board to --

Joe Kealoha. He came to the board a while back to get final approval, like Dominic Moreno, for a subdivision where there wasn't adequate water lines. And I think somebody on the board asked if he was willing to pay a pro rata share of a project that we were doing in the

area and he said yes. And because we didn't have any way of determining the pro rata share, he said he would sit down with the staff and come up with some criteria and he did that and this is the result of that.

MR. HIRANAGA: I guess my one concern is it would appear to me that the board would be advancing funds for the construction of facilities and then be in a position of having to collect in the future from additional users. I don't know the viability of being able to collect, first of all, and the time it would

take to collect those funds. And also, is it prudent for the board to be advancing funds for the creation of infrastructure for the advantage or of the developer.

MR. NOBRIGA: For me, Board Member Hiranaga, that will be part of a discussion going forward in trying to search out a fair and equitable solution for the many applicants that we have heard in the past, looking for some type of situation that they can move forward with projects that are being held -- a project has been held up because of inadequacy in lines. I

don't know. Just something to look at.

MS. PARSONS: I believe we went through this once before when Mr. Kealoha was here and I think you asked about the same questions, Kent. This was a project I believe was already underway. We had already allotted funds, for example, for Mr. Kealoha's construction in the neighborhood. What he was asking for was to be able to go through a subdivision and he needed us to be able to sign off on it from the water department. And in order to do that, we asked if he

would be willing to pay a prorated share for the infrastructure, and he said he would. He was looking -- we were already under construction, but we hadn't completed it, right?

MR. NOBRIGA: Mr. Craddick.

MR. CRADDICK: That's right, but I'm taking Mr. Hiranaga's comments as more generic than just Mr. Kealoha's. The philosophy instead of the first guy coming along and paying everything, now if you've got under 10 lots, it's the Board of Water Supply that's going to be paying. And the only thing that I

can say about that, Kent, is the Board of Water Supply probably has to fix these lines up anyways, so if you have another revenue source coming in, that just helps you fix the lines up quicker. And if somebody is willing to pay a lot of the line, it may help in prioritizing. It doesn't mean that the water department is going to go ahead and do this just because the person wants to do this. The Board of Water Supply may not have the money to do it. So they may have to be willing to take on more of a front end cost of it if they want their project to move faster



than the board can move. This just allows or requires other people that benefit from that improvement to pay for it, not just the first person.

So I think that's where you have to weigh and balance the Board of Water Supply getting in and fixing up lines for a specific project, versus somebody coming in and fixing up the line and doing the Board of Water Supply's job for everybody and then everybody else jumps on for free. So which one is better is something you'll have to wrestle with as you go forward.

MR. NOBRIGA: Carl, please come forward, sit in the official chair, grab the microphone from Mr. Craddick.

MR. FREEDMAN: My name is Carl Freedman. The electric companies have several types of tariffs that are used for similar situations and they have parts of their tariffs identified under which circumstances the hookup charge is sufficient to pay for a hookup and when that threshold is greater, the customer has to pay some portion of the distribution charges. And

MECO has one tariff. HELCO has a similar tariff --

they actually have two. And then the one that both of

them have, the first customer would pay the entire

amount. But if any additional customers then hook up

to the line, the fees that they would be charged their

pro rata share and the original customer would then be

reimbursed. So that's one method that both MECO and

HELCO have.

HELCO also has an additional method where a

number of people can get together in like a hui type

of an arrangement and they all pay it together. And I

forwarded to the water department those tariffs and perhaps in -- those are details that need to be worked out. It's not just a matter of who pays. There are a number of procedural things that will have to be addressed in the rule and perhaps some suggestions could be made then.

MR. NOBRIGA: Move on to Communication 02-43, resignation of Peter Rice as Chair and member of the Board of Water Supply. The letter has been sent to the current mayor, James "Kimo" Apana. Action required is to receive the letter and graciously

accept his resignation.

MR. NAKAMURA: Mr. Chairman, I move to receive  
and accept the resignation of Mr. Rice, with regrets.

MR. NOBRIGA: Second?

MS. PARSONS: Second.

MR. NOBRIGA: Seconded by Ginnie Parsons. Any  
discussion? Peter Rice has been an incredible asset  
to this board, serving as Chair for almost two years  
and it is with deep regret that we're going to see him  
leave. We do have a resolution that will be taken up  
later on in the meeting.

All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. NOBRIGA: Opposed, nay.

(None.)

MR. NOBRIGA: Motion carries. Moving on to

Other Business, discussion/possible action regarding

election of Chair and Vice Chair.

At this time a motion would be in order to

have a Chair succeed -- the Vice Chair succeed the

Chairman, and at this time I would like to recommend

appointing Clark Hashimoto as the vice chair.

Yes, Howard.

MR. NAKAMURA: So I move.

MR. NOBRIGA: Thank you. Second.

MS. PARSONS: Second.

MR. NOBRIGA: Moved and seconded. Any

discussion? All those in favor, signify by saying

aye.

(A chorus of ayes.)

MR. NOBRIGA: Opposed, nay.

(None.)

MR. NOBRIGA: Thank you, guys, and lady.

Possible action regarding review of Upcountry drought situation. I asked the water director Craddick to bring back to the table Resolution 98-18 which was a resolution that not all of the members of this body had in their possession during our discussions during the special meeting on declaring a drought emergency Upcountry.

MR. CRADDICK: Do you want me to go over it.

MR. NOBRIGA: Yes, please.

MR. CRADDICK: How this resolution came about



was the rules of the Board of Water Supply just say that the board can declare a drought and we didn't have a clear understanding between the staff and the board as to what a drought was, how severe the drought was. We established these guidelines. There were previous resolutions that predated this one. This was the most recent iteration up to the time that we went into an agreement with A&B basically where we said we would keep reservoirs up to 80 percent as much of the time as we could and we would use all available groundwater sources when there was a drought. But

we're kind of left in a void as to what's a drought,  
as was apparent at the last board meeting.

This resolution is still in force and effect  
until the board rescinds it and I guess -- well,  
anyways, it's got three levels of drought in there, a  
drought watch, a drought warning, and a drought  
emergency and then it's got the steps that we take  
reversing out of that. And the way it had worked was  
these triggers and actions that we took when those  
triggers were met were fairly well understood by staff

and the community and I would certainly recommend that you continue doing something like to even if you want to change them to some other levels. Because right now the main function of a drought is so that we can use ground water sources and actually avoid going into a drought situation. So the landscape has changed significantly from the time we passed this and it would just be my recommendation to continue something like this in writing so that there is a very clear understanding between the staff and the board. Because as far as I know, it's still the board's

prerogative to declare a drought.

Do you want me to go over the current situation?

MR. NOBRIGA: Yes, please.

MR. CRADDICK: Okay. The current situation, Wailoa Ditch is about 54.7 million gallons per day, or 27.4 percent of capacity. The Kamole Water Treatment Facility is producing about 2.1 million gallons. The Piiholo Treatment Facility, the reservoir is 99 percent full. Production is about 2.3 million gallons. Waikamoi reservoir, the reservoirs are

empty. Kahakapao, the reservoirs are at about 65 percent. The Olinda Treatment Facility is producing about 1.2 million gallons. The total demand for the Upcountry system is 6.4 million gallons. This includes surface water which is at 5.6 and water from the Haiku and Kaupakalua well, 0.8 million. And the average demand for the past week is about 6.1 million gallons a day. And this is as of this morning, the report this morning.

We still do not have the Hamakuapoko wells operating where they can put water into the system.

They have taken this entire time from the last meeting to get the wells disinfected and now that they're disinfected they're trying to disinfect the GAC plant and that may take -- probably it will take an equivalent amount of time, two or three weeks to do that, to get the GAC plant disinfected. And keep in mind that other well is still not functioning, so.

MR. NOBRIGA: Questions?

MR. HIRANAGA: Question.

MR. NOBRIGA: Yes, Kent.

MR. HIRANAGA: So based upon your letter given to us this morning on the current status of the Upcountry water system, where should we be, in a drought watch or in a drought warning or in a drought emergency?

MR. CRADDICK: According to this resolution, I don't believe we meet any of the -- well, we meet some of the individual triggers, but for a drought watch it's at least three of the above triggers and we do not even meet -- I take that back. We meet three -- we meet three -- I guess we meet that one there and

then maybe the rainfall prediction for the future, might be that we meet two there. So at the most, it's a drought watch situation. But I'm not even certain we meet three of those six triggers there.

MR. NOBRIGA: The six would be, Mr. Craddick?

MR. CRADDICK: The average daily inflow is less than system demand and it appears the inflow is greater than system demand because the reservoirs are filling up. The raw water reservoir is less than 110 million gallons -- or 101 million gallons total and we exceed that. We exceed 27 million at Lower Kula, we



just don't exceed 74 million at upper Kula. So  
because it says or then argumentatively we could meet  
that one. The total EMI Maliko Ditch flow is at less  
than 200 mgd; we obviously meet that one. And then we  
also meet the -- we're less than 107 million gallons a  
day at Wailoa. The rainfall prediction in the  
foreseeable future is insufficient to provide average  
daily flows on the 2 million gallon Upper Kula or 3.75  
million gallon Lower Kula system. And again, I would  
-- the rainfall prediction I'm looking at is the El  
Nino report which basically is saying this winter is

going to be dryer than normal. I have no way to confirm or deny whether it will be that way, but that's what the prediction is.

The Kamole demand is greater than 4 million; that's not met because the demand is around 2, 2.1. And Lower Kula demand is greater than 4 million; and we don't meet that one because it's about 2.3 million gallons. So basically we meet two of these six here on the drought watch.

MS. PARSONS: Do you have the media going

right now? Do we have conservation on the radio?

MR. CRADDICK: Yes, I believe so, yes.

MS. PARSONS: You might want to have Jack this stuff up -- step up press releases if we're going to maintain this so that every few days they're getting a press release to remind people. Because otherwise they won't announce it during the news unless you keep constantly reminding them on the radio stations.

MR. NOBRIGA: Any further action?

Mr. Hiranaga.

MR. HIRANAGA: So what is our current status?

Are we in a drought watch? Are we in a drought warning, a drought emergency, or are we normal?

MR. CRADDICK: Right now the board has just declared a drought. And like I said, we don't actually meet any of these criteria except that we don't have the reservoirs up at 80 percent which is another criteria to look at. I think what really needs to be done is this resolution needs to be revised and in line with current agreements that the board has if you want to continue trying to keep reservoirs at 80 percent. And I do not recommend that

because we wasted quite a bit of money in the year  
2000-2001 trying to keep reservoirs at that level.

And the only thing I can say is I think this  
needs to be relooked at in light of the current  
events, where we can basically avoid a drought  
situation by running groundwater sources that are  
available to the board.

MR. NOBRIGA: Yes, Mr. Hiranaga.

MR. HIRANAGA: So should we continue to be in  
a drought emergency situation?

MR. CRADDICK: Because the long lead time is

for less rain rather than normal rain, my recommendation would be to continue because hopefully we will get those wells functional at some point and they would be available to use if the situation worsens. But right now nothing is even going into the system. And I'll leave it up to corp counsel whether we need to continue the drought to continue trying to get these things operational. If we don't, then maybe there is no need for it.

MS. PARSONS: I thought you said drought

watch.

MR. NOBRIGA: Before you go ahead,

Ms. Parsons, is Mr. Hiranaga done with his questions?

Thank you, Ms. Parsons, you have the floor.

MS. PARSONS: Kent said emergency; I thought

you said drought watch.

MR. CRADDICK: Yeah, that's right.

MS. PARSONS: We don't need emergency, just a

drought watch.

MR. CRADDICK: That's correct.

MR. NOBRIGA: Mr. Nakamura.

MR. NAKAMURA: Mr. Chairman, I would like to just ask corporation counsel a question as to what is the board's authority under the recent charter amendment as it relates to declaration of drought or is that now an administrative function?

MR. NOBRIGA: It's actually next on the agenda, Mr. Nakamura.

MR. KUSHI: Yes, Mr. Chairman and Member Nakamura, can you hold off until the next item? I can cover it then.

MR. NAKAMURA: Thank you.



MR. HIRANAGA: Clarification: Are we in a drought watch or are we in a drought emergency?

MR. CRADDICK: As far as I know, you've just declared a drought and not making any more reference to it than that.

MR. NOBRIGA: Any further discussion on droughts and what not? Okay. No action is required. Just an informational -- we'll revisit the drought declaration in our January -- regular meeting in January. Okay.

Moving on to item C, discussion and possible

action regarding report from Corporation Counsel on  
the duties and responsibilities of the Board of Water  
Supply under the County of Maui's Charter amendments.

Mr. Kushi, please.

MR. KUSHI: Mr. Chair, may I ask that you call

a short recess so I can pass out some handouts?

MR. NOBRIGA: Very good.

(Brief recess.)

MR. NOBRIGA: Thank you, Mr. Kushi, for

preparing this document. If you would.

MR. KUSHI: Yes, Mr. Chair, what I passed out to you is -- first of all, it's a memo from our office dated December 4, 2002, from Brian Moto, our First Deputy Corporation Counsel to Dain Kane, Acting Council Chair. It's quite a long memo. It was copied to the department, Mr. Craddick and Mr. Tengan, and I believe Mr. Rice also had a copy but I'm not sure if the remaining board members did. But anyway, that's the first document.

The second one again is the -- I took it out directly from the text of the proposed Charter

amendments starting at page 27, alternate proposal 9

which is 9A, which was adopted by the electorate. And

that's the full text of the Charter changes with the

deletions as well as the additions.

So if I may, Mr. Chair, first of all, going

over the -- my intent this morning is just to kind of

briefly summarize the changes as a result of the

Charter amendment and how it affects the board and

maybe touch on some of the departmental

responsibilities.

Going on to the memo dated December 4th, most

of the items -- some of the items do not apply, but the main items are basically that there was a question of when the amendments became effective. It's clearly stated that they had become effective December 5th, which is 30 days after the election. Some Charter amendments are not effective until early January. But for purposes of this discussion, Charter Amendment 9A became effective December 5th.

It goes on in terms of starting on page three about the status of the director, but we don't need to get into that. My understanding was that the current

mayor did appoint Mr. Craddick and Mr. Tengan in their respective positions for the interim. Come January 2nd, that will change.

And lastly, in terms of starting on page six of that memo, they do discuss rule making and the authority of the board. And basically our office's position would be or is that your current rules, departmental rules, which up to December 4th the board passed, the mayor signed, and then Council approved, those rules validly adopt still remain in force and

effect until repealed. However, it's our position that in the event the current rules conflict with the charter amendments, the specific authority of the board as revised by this Charter Amendment 9A, to that extent the Charter Amendment, if they're inconsistent, to that extent the rules must take second place. And I'll get into instances where that would happen. But again, the board still exists, your rules still exist, unless inconsistent with the provisions of the Charter Amendment.

So any questions on that? I know it's quite

lengthy, but yet those are the three points I think

this memo brings out from the standpoint affecting the

department as well as the board.

And lastly, Mr. Moto did comment, I believe,

on the top of page seven of this memo that he cannot

-- he was not presented a case by case situation

whereby we could make a decision, you know, if the

rule is in effect or not. And until presented, it's

really not a shotgun approach. And I will try to

touch on that in a second.

Moving on to the second handout which is the



text of the charter amendment package, which I took it out from here, the Revised Final Report of the Maui County Charter Commission. The emphasis here is that on page 27, the first sentence underlining Alternate Proposal Nine was that the intent, I believe, of the Charter Commission -- not Charter Commission, this was proposed by the Council. But as stated in the Charter Commission's report, the intent of the Council in putting forth this alternate proposal 9A was that if passed, the effect would be -- the effect of the-- passage will have the effect of making the department

a regular county agency like the Parks Department or  
the Public Works Department, et cetera, under the  
Mayor's executive management and the Council's  
legislative oversight. So the intent is clear there.

And instead of going on and on section by  
section, in essence as it affects the board, I believe  
if you look at page 28, Section 8-11.3, Board of Water  
Supply, in essence the underlining portions of that  
amendment, the last sentence basically states that the  
Board of Water Supply shall act as an advisor to the

director and the mayor and the council in all matters concerning our county's water system.

Under Section 8-11.4, Powers, Duties and Functions of the board, a lot of those functions basically were deleted. Namely, now you have no power to appoint, evaluate or remove the director. You have no authority to adopt rules, no authority to create or abolish positions, no authority to adopt an annual operating or capital budget, no authority to acquire, purchase, lease, sell, or otherwise convey and accept real property.

So your remaining -- the question is what is your remaining authority. Again, reflecting back to the previous section, you have to give your -- you're an advisor to the department, to the executive and to the Council. However, remaining provisions are that you're specifically empowered to review before submittal to the department's budget. You still have that function; again, in an advisory capacity.

And then in terms of rates and fees, you have that authority to recommend before submittal to the mayor for review. There is some nuances in the

situation about rates and fees, the bottom of page 28,  
subsection 2. As I read it, it says that the board  
can recommend the establishment and adjustment of  
rates and fees and then submit it to the mayor for  
review and approval. Then it goes on, "If approved by  
the mayor, then it will be submitted to the council."

So I believe the mayor has authority to basically  
withhold rates and fees. In essence a pre-veto  
function. However, that doesn't involve the rules.

Moving on, in terms of -- bottom of page 29,  
again, the previous section 8-11.8, Approval of

Rules, that entire section was deleted. So the question is what happens now. In the case of a previous discussion about the resolution, my understanding it was not a rule. However, if you want to make a rule, the question is what happens. The charter says you don't have the authority to propose rules. However, the department as a county agency still falls under HRS Chapter 91. Any department or agency of the state or county can undertake rule-making procedures. So I would imagine you as the

advisor to the department can discuss rule making.

The department can go out to the public for rule

making. And there is a procedure in Charter 91 for

that. Then the mayor signs off on rules.

MR. CRADDICK: Where does it say that? That

the mayor signs off on the rules.

MR. KUSHI: Mr. Chair, Section 91-3(c), HRS.

If I may continue, Mr. Chair, so those are the

sections that I believe affects the board's situation

to these new charter amendments. As I stated, you

know, I didn't have the time to go point by point over

all of your rules, but there will be situations where your rules are in existence and if you recall we just recently passed appeal procedures -- specifically appeal of the director's decisions, if a customer doesn't like it, they can appeal to you. The question becomes -- and I believe a two-thirds majority. If you decided it was arbitration -- arbitrary, capricious, et cetera, you could overturn his decision. That now becomes strictly advisory. I believe a member of the public could go through that because your rules still are in existence. However,



any decision rendered by the board will be advising the director, hey, why don't you think about it again.

In essence it becomes a recommendation. The member of the public could just say well, why waste my time with that, I'll just take you to court. That's his choice. Even after, you know, even before December 4th, they could still take you to court. But again, your rules still are in place.

Board Member Nakamura wanted to discuss the 4.1 about the drought. Section 4.1 of your rules under Declaration of Drought, there are about three

areas where it says the director, with approval of the board, with approval of the board, et cetera, et cetera, et cetera. Again, because of the Charter changes, your rules are still in effect, but it becomes a recommendation.

Technically, and I believe maybe it hasn't been brought up to our office for decision, possibly the director could just do it. Okay. Because you again not overturn based on these Charter amendments the director's decision. And we're not talking about

the mayor or the council; it's the director.

I could go item by item over the rules if you want to -- maybe for the next meeting -- and do a chart scenario where the board is stated as being supervisory to the mayor and this would change. But I'm not prepared to do it now.

MR. NOBRIGA: Questions, members?

Mr. Hashimoto.

MR. HASHIMOTO: So the board could recommend calling a drought or calling off a drought, but if the director doesn't agree then it's his prerogative.

MR. KUSHI: That would be our office's  
position.

MR. NOBRIGA: Any other questions, members?

Do you have a question, Herb?

MR. KOGASAKA: My question is processing fees  
for the appeal of the director's decision is \$300. Do  
we continue to collect that or what is corporation  
counsel's take on that?

MR. KUSHI: Yes. If I recall, to get a  
hearing before you on an appeal, it does cost some  
funds. That has not changed. The outcome -- the

effect of your decision does change. But if someone wants to go through it, the rule still stands, they have to pay this fee.

MR. NOBRIGA: Mr. Craddick.

MR. CRADDICK: One thing that you may want to get additional advice on is 91C or 3C, the adoption amendment or repeal of any rule by any state agency shall be subject to approval of the mayor. The adoption, amendment or repeal of any rule by any county agency shall be subject to approval of the mayor of the county. This subsection shall not apply

to the adoption amendment and repeal of the rule to  
the county boards of water supply. And the rules that  
we have are not the rules of the Board of Water  
Supply, they're the rules of the department. And the  
Big Island does not even have a Board of Water Supply.  
So that wording in there I believe you need to go into  
what the legislative intent was and I believe it may  
be that HRS Chapter 54 prevails where the charter does  
not say anything about rule making for the Department  
of Water Supply.

MR. NOBRIGA: Virginia.

MS. PARSONS: So just for clarification

purposes, David, are you saying that HRS may supersede  
the county charter issue?

MR. CRADDICK: It wouldn't supersede the  
county charter, but where the county charter is silent  
then you would go to HRS. And HRS is -- or the county  
charter is silent for Department of Water Supply rule  
making.

MS. PARSONS: Mr. Kushi, can you give us some  
information on that for the next meeting?

MR. KUSHI: Mr. Chair, Members Parsons, I can answer you this now. This is not the time to argue about the situation, but it's our position that, like I stated before, the intent of this charter amendment was to make the department a regular executive department. There are some conflicts with Chapter 54 and director mentioned there are some conflicts with the wording of 91-1, et cetera. However, again, it's our position and we're just citing this one case that happened back in 1978, HGEA versus County of Maui, and in that case back in '78, the Charter changed and it's



a similar situation like we have here, our Supreme Court basically said that if the Charter puts -- based on the Charter change, if it puts the department back into under the executive branch, then it overrules any inconsistent state statute. And it specifically mentioned Chapter 54.

So again, you know, it will be our position at this point in time, unless we want to challenge this case law, which is still good law, that any inconsistencies in HRS versus our new Charter, the Charter would control because it's an executive

function.

MR. NOBRIGA: Thank you. Thank you,

Mr. Kushi. Yes, Mr. Williams.

MR. WILLIAMS: My question is a fundamental question, Corp Counsel. We have what we call an active Board of Water Supply and now we have to have an advisory board. First of all, what will happen when one of the members of the board becomes eligible for reelection or resigns, retires, does the fundamental board as it is right now change, become an

advisory board that is something quite different?

We're mentioning HRS 54. I'm not quite sure whether

that says anything about that. But it seems to me

we're dealing with a different animal when we're

dealing with an advisory board as compared to what is

really an active board that directs the operations of

the water supply department in Maui County. Is there

-- will there be a difference in the way the election

goes and the role of the members of the new advisory

board?

MR. NOBRIGA: Thank you for your comments.

I'm not prepared at this time to have questions from the public answered by Corp Counsel directly. I do realize that we will have a different set of rules come January. Not being officially elected chairman prior to this meeting, I have not made any comments or haven't made any visit with Mayor-Elect Arakawa. I plan to have discussions with Mayor Arakawa. The entire complexion of this board will change come January 1st and new elections for chairman and vice chairman will be in order come January 1st. Because in addition to the six I guess volunteer members of

this board, we also have coming on to the board the  
Director of Public Works and the Director of Planning  
which we have not had before, only as an ex officio.

MR. WILLIAMS: Thank you.

MR. CRADDICK: They have always been ex  
officio members.

MR. NOBRIGA: They're still going to be ex  
officio?

MR. CRADDICK: That's what it says.

MR. NOBRIGA: I thought they weren't going to  
be.

MR. CRADDICK: Under 9 they were going to become voting members. Under 9A, they are just ex officio.

MR. NOBRIGA: Okay. Thanks. Thanks, Mr. Kushi. Job well done.

I would like to have the Annual Progress Report for Maui Nui Botanical Gardens which is in our agenda, it's a report being that we do have financial contribution to this project. Is there any action required? I don't think so.

MR. CRADDICK: No.

MR. NOBRIGA: Just the receipt of the progress report. If no objection, so ordered.

Let's go to Other Business, Item E, Resolution number 3 (2002), a resolution for Peter Rice. Do I have a motion to accept this resolution?

MR. HASHIMOTO: So moved.

MS. PARSONS: Second.

MR. NOBRIGA: Moved and second. Can I ask Cathy Howard to please read the resolution for us?

MS. HOWARD: Board of Water Supply, County of

Maui, Resolution No. 3 (2002).

Whereas, Peter Rice of Lahaina, Maui was appointed to serve out the unexpired term of another Board Member of the Board of Water Supply of the County of Maui on July 16, 1999, and served until March 31, 2001.

Whereas, Peter Rice was appointed to the Board of Water Supply of the County of Maui on April 1st, 2001 and his term will expire March 31, 2006.

Whereas, the said Peter Rice served as Chairperson of the Board of Water Supply from April



1st, 2001 to November 2002.

Whereas, the said Peter Rice has unselfishly and with dedication devoted, without compensation, his time and energy into matters dealing with the Board of Water Supply, all in the interest of the people of the County of Maui.

Whereas, during the time of his service as a Board Member, he contributed generously of his knowledge and skills to make business and policy decisions for the Board that will influence its direction and operation for the years ahead.

Whereas, his interest in this Board and the Department has been greatly appreciated by his fellow board members; now, therefore, be it resolved by the Board of Water Supply of the County of Maui that it does hereby congratulate, commend, and thank the said Peter Rice for the three years and five months of faithful and outstanding service he has rendered as a member of the Board of Water Supply.

And be it further resolved that the members of this board extend to Peter Rice our sincere aloha and

best wishes for his continued success and much  
happiness in his future endeavors.

And be it further resolved that a certified  
copy of this Resolution be transmitted to the said  
Peter Rice and to the Maui County Mayor and Council.

Approved as to form and legality: By Edward S.  
Kushi, Jr., Deputy Corporation Counsel.

MR. NOBRIGA: Thank you, Cathy. Roll call  
vote, certification of adoption. All those in favor.  
Virginia Parsons?

MS. PARSONS: Yes.

MR. NOBRIGA: Howard Nakamura.

MR. NAKAMURA: Yes.

MR. NOBRIGA: Kent Hiranaga.

MR. HIRANAGA: Aye.

MR. NOBRIGA: Clark Hashimoto.

MR. HASHIMOTO: Aye.

MR. NOBRIGA: Mike Nobriga. Aye. Motion

passed. The rest of the members are excused because

they have [inaudible].

MR. NAKAMURA: Mr. Chairman, may I just echo

your previous statements. I think Peter Rice was an

excellent chairman. He did many good things. He was  
a very clear thinker and I appreciate his guidance and  
I'm sure you will follow in his footsteps.

MR. NOBRIGA: Try to follow, but big shoes.

Wish I could golf as good as he can.

Members, last order of business today is a  
Resolution No. 4 (2002) for Mr. David Craddick. May I  
have a motion for its acceptance?

MR. HASHIMOTO: So moved.

MR. NOBRIGA: Thank you. Is there a second?

MR. NAKAMURA: Second.

MR. NOBRIGA: Moved and seconded. The Board  
of Water Supply, County of Maui, Resolution No. 4  
(2002).

Whereas, David E. Ray Craddick of Wailuku,  
Maui was appointed Deputy Director of the Department  
of Water Supply for the County of Maui November of  
1990.

Whereas, the said David E. Ray Craddick was  
appointed Director of the Department of Water Supply  
of the County of Maui January of 1992.

Whereas, the said David E. Ray Craddick has  
with dedication devoted his time and energy into  
matters dealing with the Department of Water Supply,  
all in the interest of the people of the County of  
Maui.

Whereas, the same said David E. Ray Craddick  
has been director for over ten years, making him the  
longest serving Director for the County of Maui  
Department of Water Supply.

Whereas, under the direction of David E. Ray  
Craddick, the Department of Water Supply has moved

forward, utilizing state-of-the-art technology, with such endeavors as being the first public water utility in the state to install radio-read meters; install, integrate, and maintain the Supervisory Control and Data Acquisition System, known as SCADA; and improve accounting and billing section technology, integrating with the County's system.

Whereas, under the consider direction of David E. Ray Craddick, the Department of Water Supply has invited and undergone the American Water Works Association QualServe peer review training to improve



service and efficiency.

Whereas, the said David E. Ray Craddick has shown his continued dedication to the development and care of water resources.

Whereas, under the direction of David E. Ray Craddick, the Department of Water Supply has successfully add twelve new wells to the system.

Whereas, under the direction of David E. Ray Craddick, the Department of Water Supply has successfully added over one hundred twenty-five million gallons of surface water storage to the

system.

Whereas, under the direction of David E. Ray Craddick, the Department of Water Supply has successfully added over fourteen million gallon of drinking water storage to the entire system.

Whereas, under the direction of David E. Ray Craddick, the Department of Water Supply, after water rates were approved in 1997, has undergone continuous construction and replacement of pipeline where most urgently needed.

Whereas, under the direction of David E. Ray

Craddick, the Department of Water Supply for the first public utility in the state to establish large-scale water treatment facilities in compliance with the US Environmental Protection Agency Surface Water Treatment Rule.

Whereas, under the direction of David E. Ray

Craddick, the Department of Water Supply has worked to continue watershed protection by the purchase of 2000 acres of watershed lands, the receipt of a perpetual conservation easement for 3000 acres, and the

formation of The West Maui Water Mountains Watershed

Partnership, the East Maui Watershed Partnership, and

the East Molokai Watershed Partnership.

Whereas, under the direction of David E. Ray

Craddick, the Department of Water Supply has

diligently strived to keep the public informed through

public meetings, notices, and the Department website.

Whereas, under the direction of David E. Ray

Craddick, the Department of Water Supply has shown

dedication to our customers by providing service which

continues to decrease in the number of consumer

complaints, is provided with the lowest public water rates  
in the state, supplies water that is in full  
compliance with the U.S. Environmental Protection  
Agency's Safe Drinking Water Act, service and supplies  
continuous even, under drought conditions.

Whereas, under the direction of David E. Ray  
Craddick, the Department of Water Supply was the first  
public water facility in the state to utilize loan  
provisions under the U.S. Environmental Protection  
Agency Safe Drinking Water Act.

Whereas, under the direction of David E. Ray

Craddick, the Department of Water Supply has  
successfully utilized grant monies in excess of  
nineteen million dollars to aid in funding capital  
improvement projects.

Whereas, under the direction of David E. Ray  
Craddick, the Department of Water Supply has recovered  
three million dollars for capital cost to treat DBCP  
and operating costs for the next forty years to  
operate those facilities.

Whereas, during the time of his service as

Deputy Director and Director, he has contributed generously of his knowledge and skills to make business and policy decisions for the Department that will influence its direction and operation for many years to come.

Whereas, his interest in the Department of Water Supply has been greatly appreciated by the Board of Water Supply, now, therefore, be it resolved by the Board of Water Supply of the County of Maui that it does hereby congratulate, commend, and thank the said David E. Ray Craddick for over twelve years of perfect

attendance and faithful and outstanding service which he has rendered as the Deputy Director and Director of the Department of Water Supply.

And be it further resolved that the Members of this Board extend to David E. Ray Craddick our sincere aloha and best wishes for his continued success and much happiness in his future endeavors.

And be it further resolved that a certified copy of this Resolution be transmitted to the said David E. Ray Craddick and to the Maui County Mayor and Council.



Approved as to form and legality by the right

honorable Edward S. Kushi, Jr., Deputy Corporation

Counsel.

That's a mouthful. Also like to add that

whereas Mr. David Craddick and his wife, Flo, have

taught us a lot about attending the AWWA conference.

All those in favor by roll call vote. Ginnie

Parsons.

MS. PARSONS: I would like to thank

Mr. Craddick personally for teaching me an awful lot

about the water system in the County of Maui. I think

you've been an outstanding director and I know you've gone through a lot over the last 10 or 12 years and I hope we see you again in the future. Hopefully maybe you'll come back with us. I personally accept this.

Aye.

MR. NOBRIGA: Thank you. Howard Nakamura.

MR. NAKAMURA: I would also like to wish David

the best of luck in the future, David.

MR. NOBRIGA: Kent Hiranaga.

MR. HIRANAGA: Aye.

MR. NOBRIGA: Clark Hashimoto.

MR. HASHIMOTO: I think David is one of the most knowledgeable if not the most knowledgeable of all the water systems here on Maui and Molokai and I would like to thank him for his many years of service. And also to his wife for keeping us entertained at some of these conferences. And I wish you the best in your future endeavors. Aye.

MR. NOBRIGA: Thank you, Clark. I render an aye. Gives a slim but majority to this resolution.

There being no further business, the Board of

Water Supply meeting is adjourned.

(Whereupon, the meeting was adjourned at 10:15

a.m.)

*"By Water All Things Find Life"*

Department of Water Supply  
County of Maui  
P.O. Box 1109  
Wailuku, HI 96793-6109  
Telephone (808) 270-7816  
Fax (808) 270-7951

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