

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
NEW MEMBER ORIENTATION MEETING

Held at the Kahului Shopping Center, Kaahumanu Avenue,
Kahului, Maui, Hawaii, commencing at 8:40 a.m. on
April 24, 2003, pursuant to Notice.

REPORTED BY: JEANNETTE WALTI IWADO RPR/CSR #135

IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

BOARD MEMBERS: Michael Nobriga, Chair

Clark Hashimoto, Vice Chair

Stacy Helm Crivello

Kent M. Hiranaga

Kenneth M. Okumura

Ginny Parsons

Dorothy R. Pyle

Sally Raisbeck

Michael Victorino

Staff present: George Tengan director

Herb Chang, Engineering

Ellen Kraftsow, Water Resources and Planning

Bryce Fukuyama, Plant Operations

Robert Vida, Field Operations

Paul Seitz, Water Treatment Plant

Jacky Takakura, Public Information Officer

Ed Kushi, Deputy Corporation Counsel

Cathy Howard, Board Secretary

TRANSCRIPT OF PROCEEDINGS

IWADO COURT REPORTERS, INC.

BOARD OF WATER SUPPLY

NEW MEMBER ORIENTATION MEETING

APRIL 24, 2003

CHAIRMAN NOBRIGA: Good morning. I'd like to

call the Board of Water Supply new member orientation

meeting to order. It's 8:40 in the morning here in

Kahului, the shopping center, in the Board of Water Supply

conference room.

In attendance this morning we have board member

Kenneth Okumura, Vice-Chair Clark Hashimoto, board member

Ginny Parsons, board member Mike Victorino, board member

Stacy Helm Crivello, board member Dorothy Pyle, board

member Sally Raisbeck, board Chair Mike Nobriga, department

director George Tengan, Honorable Corp Counsel Edward

Kushi, Junior, board secretary, who has been hard at work

this morning setting up our facilities, Cathy Howard.

We have one written testimony from the public

for our orientation meeting. The written testimony comes from Terry Vencel, which was the Chairman of the Charter Review Commission. It is entitled Charter Change.

Director Tengan and board members would like to address some questions I have been asked out in the public regarding the change in the water department after the election on November 5, 2002. The Charter Commission

provided options for the change due to the many meetings

held in all geographical areas of our county. Everywhere

we went the consensus was that the water department was

broken. We felt it important to call for the community two

options, and they chose to put the water department under the Mayor's office.

My comments are going to be limited to my own personal perception of what I think the new advisory board can be to the department. I think it's important for the board to understand that they can be an integral part of the direction given to the department. If they come to be a credible board in the eyes of the community, they will have more power than they did as a board with the ability to make more final decisions.

I believe the new board should be consulted and

have a part in setting the direction and tone for the department. I think the board should assist the department by monitoring projects to make sure CIP, capital improvement projects and other projects are getting done in a timely fashion. I believe it is the responsibility of the new board to be the sounding board for the department and the community. I think that they are the bridge between those entities.

I think the board is the research team for the Mayor to the Council. The board will hear the concerns of the department and the community and assist in advising the

Mayor and the Council on what direction to take. Whether

it is rates, conservation, public relations, environment,

or other more legally binding decisions, the Mayor and

Council will hopefully look to the board to research issues

and provide options for their decision-making. I believe

this board can be the catapult from which the department

begins to gain the trust of the community.

I do not, however, believe that this board has

any real decision-making authority any longer. In my eyes,

however, that doesn't mean they have no power. It's about

how you choose to set yourself up as a board and how you

choose to use your ability to provide advice. I hope that

the win in this scenario will be the community. I believe it will be, and I look forward to the wonderful work that I believe this board can achieve. Thank you from allowing me to comment. Sincerely, Terry Vencel.

Is there any other public testimony to be provided at this orientation meeting of the new board? Hearing none, we will move through our agenda. Item IV, new member orientation. Item A, the presentation on meeting procedures by Chairperson Mike Nobriga. That's me.

Good morning, fellow board members. Hot diggidy

dog. I have enclosed in the handouts this morning a summary of an introduction to Robert's Rules of Order.

Robert's Rules of Order is, I guess, the recognized authority on the use of parliamentary procedure.

Parliamentary procedure is important because it is a time tested method of conducting business and meetings and public gatherings. The whole emphasis of using Robert's Rules is to protect the minority's opinion while getting a consensus of the majority by having clear decisions made and moving forward.

There's a whole list of things covered under

Robert's Rules and the use of parliamentary procedures.

Parliamentary procedures encompass much more than having

just motions made and seconds. There is four distinct

levels of priority of motions. You have main motions,

subsidiary motions, privileged motions, and incidental

motions. The priority of these motions is all found in the

last page.

Motions are presented by obtaining the floor.

Once the Chairman recognizes you, make your motion. The

motion needs to be seconded. This is to assure that more

than one person would like to speak on the topic. The

maker of the motion is supposed to be given the floor after making the motion so that they can speak about why they made the motion, their feelings about the motion, and the course of action they wish the body to agree upon. Then the floor is usually opened up for other members to discuss the validity of the motion or to offer negative comments against the motion.

At all times I'd ask everybody to be considerate of the speaker. Don't interrupt, don't have side communications going on while someone is speaking so that everyone can hear what the person wants to say. You should never criticize or attack a speaker.

The meetings should be run where there is no personal interest stated with the speaker of the motion. I would like everyone to be very polite and courteous while someone is speaking. If you have a question, questions will be entertained and answers will be provided. Above all, during our meetings I cannot allow anybody to beleaguer the department's staff.

In our meetings we provide open testimony.

Testimony can be provided in one of two ways. Either verbally, as a person comes up to the front of the room and speaks his piece, or written testimony, which we had an

example of this morning. Not all times will the written testimony be read into the official minutes. We have had a practice in the past to have a court stenographer record the entire meeting. We have chosen to continue with this process because what happens at this meeting is usually looked at very closely by the legal system.

During testimony, after someone provides information, I do invite board members to ask questions to clarify the testifier's position. If the testimony does not include -- well, let me put it this way. If a testifier would like to ask questions, questions need to be

in written communication to the board. This way the department staff can have an opportunity to create an answer for the question.

Agenda items are welcome. I ask that all agenda items be submitted to the Chair. This way we can have a good flow of the meeting, and we also can have department staff work on appropriate responses to the agenda items.

Every communication item to the board will always appear on the next agenda. This is so that we can refer the communication to the department for a report, then it comes back to us for deliberation. If the communication is very

small, very concise, we may and we can deal with it at that time. Not all communication needs to have department research and department answers.

The responsibilities of being a board member is very serious. Although with the new charter changes we as board members are not the ultimate authority to the department, in the previous charter this board had full authority over the director, and we had a lot of -- we had the ability to basically remove the director. That's where our authority really was in existence with the department. Under the current charter we are not the department and the department is not the board. That needs to be understood

at all times. The public, though, will see every one of us individually as the supreme authority when it comes down to department business.

I ask everyone to please be aware when they are speaking individually in public, please do not use your personal thoughts and views when speaking about the department and this board. Please use the board policy or the board's official position on topics when you appear in public. It does not do any one the right justice when we speak out of turn at public functions.

If there is something that you need the board to

decide upon so that we have full support from this body,

please put it on our agenda. Ask me and I will put it on

the agenda so we can speak about it, we can debate it, and

we can get a formal position and move forward. We do not

have any authority over the department, individually or as

a whole. The authority of the department comes from the

Mayor. We are purely advisory.

I have had a few discussions with Mayor Arakawa,

and he has relayed to me, and I will be trying to get

written communication to the effect, that the Mayor would

like this body to be the sounding board for the public. He

has looked to us to be a judicial body to listen to

customers' complaints and requests for appeal.

Later in the agenda we have a discussion by Corp

Counsel. He will also restate this. The Board of Water

Supply rules still exist prior to the charter amendment.

The Board of Water Supply rules are still valid. Part of

these rules entrust this body with granting waivers to the

rules. We will be hearing many of these appeals at today's

regular meeting.

Before we waive any of the department's rules,

we need to have all the wise answers so we can state rule

and verse on the particular reason why we would recommend

this waiver. I urge everyone to look at the big picture of

the entire island, the community of Maui, before taking

action to grant waivers of the rules at this point in

time. That's it, thank you. Any questions? Sally.

MS. RAISBECK: Okay. The Corporation Counsel

says the Board of Water -- oh, sorry. The Corporation

Counsel says the Board of Water Supply rules are still

valid, however yesterday at the orientation for all the

boards and commissions Mr. Kim was talking about interim

rules as if it implied that our rules, since they have to

be changed because of the charter change, that they are

presently interim rules rather than valid rules. There are too many references to the board's powers in the rules.

So I just question that as to whether that is indeed -- I mean we obviously can't operate under the rules that say the board has the authority to do this and that, so wouldn't they be called interim rules?

CHAIRMAN NOBRIGA: I guess. It's just the rules are the rules. They still apply.

MS. RAISBECK: No, they can't.

CHAIRMAN NOBRIGA: If we choose as a body to say that we have no rules, then the meeting should be adjourned

already.

MS. RAISBECK: I think yesterday they were referred to as interim rules. That would be my question, as to whether they should be considered interim rules.

CHAIRMAN NOBRIGA: Mr. Corp Counsel?

MR. KUSHI: Mr. Chair, I will address that question when I do my stuff.

MS. RAISBECK: Thank you. And my other question relates to, you're saying that when board members are speaking in public they should not really speak as individuals, they should only speak in accordance with an

adopted board policy. When the proper moment arrives I will be asking about that because, perhaps not right now, but at some time, because of the fact that I see an advisory board rather than a board that has authority.

An advisory board has the opportunity to present to George and the Mayor and the Council, to present a spectrum of positions rather than saying this is it. I would like to see the board present the options in the case of actions or policies, present options and say these are the pros and cons of going this way, these are the pros and cons of going that way.

So I think being an advisory board gives us the opportunity to give a wider range of opinion in our advice to the director and the council and the mayor. So that would be -- at some point I would like to have us have a debate on that issue. Thank you.

CHAIRMAN NOBRIGA: Thank you, Sally. Any other questions? Okay, move on to item B, presentation on the Department overview by Jacky Takakura. Jacky?

MS. TAKAKURA: Good morning. I'm Jacky Takakura, I'm the information specialist, and I will be giving you an overview of the Department of Water Supply and what we do. Can all of you see the screen? If you

want to move, that's fine.

The people of Maui have been supplied with potable water by the government since the days of the Hawaiian Kingdom. According to the Department of Water Supply's first annual report, printed in 1953, David T. Fleming, president of the Maui County Waterworks Board, remembers back then a two-inch line was run from Wailuku to Kahului to supply the needs of Port Town.

Today there is more than a two-inch line, there are several lines from Wailuku to Kahului, and they're more likely to be in the 12-inch to 18-inch size in diameter.

The Maui County Waterworks Board was established under the Legislature of the Territory of Hawaii, Act 289, approved May 17, 1949. Prior to this, the development of the water systems in Maui County was supervised by the Board of Supervisors, or the present day County Council, with each system functioning under its own overseer and doing its own billing and collecting, under the direction of the County engineer.

Through the creation of the Waterworks Board, the development of the water systems and sources could meet the growth of Maui and Molokai, and the demands for a

steady supply of fresh water for domestic and commercial use.

According to the 2003 County Charter, the Department of Water Supply shall manage and operate all water systems owned by the County. This presentation will show you some of the things that we do to manage and operate the water systems for the people of Maui and Molokai. It should take about half an hour, and then we can answer questions after that.

Now, a brief review of where the water comes from. As I told the Council, we don't actually make the

water, it comes from Mother Nature. It all starts out in the Pacific Ocean, the sun, evaporation, we have the clouds, the tradewinds. We are very fortunate to have the tradewinds bringing the clouds over Haleakala and the West Maui Mountains. And we have rain.

And then we have two things, the water that falls on the slopes of Haleakala and the West Maui Mountains either goes into the streams and ditches, which is what we call surface water, and eventually flows back into the ocean to continue that cycle, or it soaks down into the ground, which is what we call groundwater. Here on Maui these two kinds of water, the surface water and the

groundwater, are very important for us. They're both water sources for us.

As you know, we occasionally have droughts. The droughts affect the surface water supplies fairly quickly. Droughts affect the groundwater supplies too, but the effects are usually not noticeable right away because it does take some time for the rain to percolate through the mountain. It is often in the order of years for the rain to reach the aquifer, and that's why droughts mainly affect the upcountry area, because that area is so dependent on surface water. In other areas, like Lahaina where we use

both surface and groundwater, when there is low amounts of surface water we can pump more from our groundwater supplies from our wells.

This is a cut-out drawing courtesy of the Honolulu Board of Water Supply. You can see that underneath the island is the zone of fresh water with the aquifer, and that is sitting on salt water. We drill the wells to the fresh water. And we have to make sure that we maintain that balance of fresh water and salt water, because if the draw is too high on the fresh water, the salt water will start to rise. So we really need to

maintain that balance.

The next two maps answer the question just how much water is there. These two maps are from the Hawaii State Commission on Water Resource Management. They show the aquifer boundaries and the amount of water that they consider the aquifer can provide, or the sustainable yield. You can see that the areas that receive more rain have aquifers with higher yields. For example, the Ke'anae aquifer, 96 million gallons per day. Waikamoi, 46 million gallons per day, as compared to the south side, Kamole, 11 million gallons a day. And that makes sense, because

that's where the rain falls. Of course, that's not

necessarily where the people are that want the water, but

that's where the water is, and the water is there.

The total available supply that they consider

for the island of Maui is 476 million gallons per day. For

the island of Molokai, developable yield is 38 million

gallons per day. And this is only for groundwater, this

doesn't include the surface water from the streams and

ditches.

The mission statement of the Department of Water

Supply --

CHAIRMAN NOBRIGA: Excuse me, Jacky. Could you

explain to the board members why Lanai was not included in the overview?

MS. TAKAKURA: Even back in our first annual report when I was doing research, Lanai was always a private system, and it's run by the Lanai Company. Although we do provide, because they're part of the County, we do do some work for them regarding watershed protection and other things like that. Lanai is not the only place where there's a private water system, Kapalua and Kaanapali are the other big private water systems, and there's also some smaller ones here and there.

CHAIRMAN NOBRIGA: Thank you.

MS. TAKAKURA: Our mission statement is to provide clean water efficiently, and you will probably see this over and over again. This is our goal. It's about as simple as you can get. This is our job, and this is what we want to do. In some areas we have already met this goal, and in some areas we're still striving for it, but this is what guides us in all our work.

As I mentioned, we were created back in 1949 by the legislature for the Territory of Hawaii. Back then we had less than \$2 million worth of assets, and you can see

that has increased about a hundred times, \$259 million in assets as of last year's annual report. And that includes things like our pumps, our pipelines, our tanks, our water reservoirs.

Meters you can see have grown considerably, over 31 thousand meters now. Our largest area is the Central Maui area, with about half of that, with about 15 or 16 thousand meters. And we provide about 34 million gallons per day, as compared to Oahu, which provides about 150 or 154 million gallons per day. To pay for all of that, our revenues, you can see, are the ones in pink, about a little

bit over \$30 million a year. Expenses are just a little bit under that. Projected for 2004, \$30.7 million in expenses.

From 1997 to 1999 our expenses were actually greater than our revenues. In the year 2000 our revenues were actually equal to expenses. Only in the last two years have revenues been a little bit more than expenses, and this includes depreciation. Now, where does the money come from? Our main source is the water bills that you pay every two months, and we're still using fiscal year 2002 rates.

We will be working on a water rate increase in

the near future, so you will probably be seeing that soon.

A water system development fee, which was increased in June

of 2002. Government grants or loans, which would come from

county, state and federal government, and also bonds. And

the money goes to operations and maintenance, taking care

of that water system, replacing it when it's needed.

System expansion, watershed protection to make sure that we

have water for our future generations, and also repayment

of debt.

For the first two, operations and maintenance

and system replacement, those monies would come from the

water bills. System expansion would be from the water system development fee, which is the money that you would pay when you get a new meter, and that's the theory of growth paying for growth. The government grants or loans, and also the bonds, are usually earmarked for specific projects. And you can see in the capital improvement program handout that you received, we do keep these things separate so that we can keep track of where the money comes from and where it's going.

Okay, about our operations. We have five water systems, and within these five there are smaller water

systems too. But in general, we have five separate water systems. As I had mentioned, Central Maui is our largest area. About half of all our services are in Central Maui, and this extends from Paia to Waihee to Maalaea, all the way out to Makena, and that water is primarily groundwater from the Iao and the Waihee aquifers. We do have one surface water treatment plant near our Iao tank, which provides about a million gallons per day.

Our next largest area is the upcountry area, which you can see in green, and there's about 9 thousand services there. That area gets its water primarily from

the East Maui rain forest. It's primarily surface water, although we do have a few wells. I'd say it's about 85 percent surface water, 15 percent groundwater. West Maui, Lahaina side, about 3 thousand services. And as I had mentioned, we use about two-thirds surface water, one third groundwater. Hana, about 500 services, all well water. And Molokai, about 1500 services, and that's all well water. And there are no links between these five systems, not at this point.

The basic functions of the water department, of any water utility, is source, transmission, storage and treatment. Getting the water, making it safe and clean,

storing it so that whenever customers need it, it will be

there, and getting it out to the customer. The first is

providing the water source, and those would include our

wells, also our surface water sources, like you see in the

upper left-hand corner, our Waikamoi watershed, you can see

our Kualapuu well, which is our main source of water for

Molokai, and also the North Waihee well and another well

out in the Lahaina side, which is in the lower left

picture.

Treating the water, which is mainly an issue for

the upcountry area and the Lahaina area. The surface water

must be filtered and treated to comply with the Safe

Drinking Water Act rules. So we have six water treatment

facilities, three upcountry, two in West Maui, and one at

the Iao tank in Wailuku.

We use different kinds of technology, we use

microfiltration, which is a state-of-the-art technology.

We use that at the Olinda plant, which provides water for

the Upper Kula system, and the Kamole treatment facility,

which provides water to the Makawao system, and then also

at the Lahaina treatment facility, which is above the

Lahainaluna High School. The Iao facility is also

microfiltration.

At the Mahinahina treatment facility, which you see in the picture at the lower left, and also at the Piiholo treatment facility we use direct filtration, which is a different kind of technology.

Okay, once the water is brought to the surface and treated, we need to store it so that it's always there for our customers. We have 136 tanks of various sizes ranging from, say, 10 thousand gallons to 3 million gallons, at a grand total of 262 million gallons total storage. Our larger tanks, like what you see in the upper

left-hand corner, that's the Mokuahau tank near the Iao Stream. That's 3 million gallons. The lower left picture is the Lower Kula tank, which is 2 million gallons. And the other picture on the right is Kualapuu. That's the smaller tank on Molokai.

Okay, and then we need to get it to our customers. Transmission and distribution. In terms of what they do, transmission and distribution is basically the pipes bringing it to the customers. But transmission are usually the bigger pipes taking it to the subdivisions, or taking the water to Kihei. And then the distribution would be the smaller pipes, where you would have the

service laterals or the meters coming off of.

We have got about 750 miles of pipe, and our operations personnel are on standby 24 hours a day, 7 days a week. If you have a water break or if you see a water break, someone hits a fire hydrant in the middle of the night, you call our number. Our men have the pagers and they will answer that call and be out there regardless of what time it is to restore the service. We also do flushing, which is what you see in the left-hand picture, particularly in the upcountry area where we have dead-end lines, to make sure that the water stays fresh.

Other things that we do, we do the engineering design and construction for projects, capital improvement projects. And that includes things like building tanks, which you see in the upper left-hand corner, drilling wells, which is what you see in the upper right-hand corner, and also the drill rig, which you see in the lower right-hand corner. The other left-hand bottom picture is the GAC, the granular activated carbon filtration system at the Napili A well site in Lahaina. Those are things our engineers work on.

Another thing that we do is monitoring all of

this. As I had mentioned, we have -- our men have pagers, and it doesn't have to be somebody calling in to report a hydrant being hit or a water line break. Our tanks are all on computers, and if a tank goes too low that will signal the pager, and the men would call up and find out what the problem is and go out there if need be. Or if it's during working hours they can go and see what the problem is at the computers at the baseyard or at the computer at the director's office.

What this is is, this controls and monitors the water system, so that from our Naska baseyard we can see

what the tank levels are out in Hana, in Makena, or here

this picture is of the central system. We can see how much

water is coming out of the wells and how much is going to

each of the different parts of the system. And this was

all done in-house, saving our department millions of

dollars. I heard that the Kauai Department of Water has

contracted to have a SCADA system put in, and they're

probably going to be paying about \$4 million for this.

This was all done in-house by our own men. It's real

state-of-the-art high tech.

Also, we have to make sure that the water is of

high quality to meet all state and federal standards. Our

lab takes about 16,000 samples a year. Sometimes you will see them out there. Maybe some of you participated in like our lead and copper sampling. Our lab is state certified, so we do a lot of the tests in-house.

We also want to maintain our water sources for our future generations, so watershed protection is something that we do participate in also. Myconia removal to preserve the native forest. The watershed partnerships, there's two. Like you see on the map, they're from Maui, the East Maui Watershed Partnership, which protects 100 thousand acres. And also the West Maui Mountains Watershed

Partnership, which protects 50 thousand acres. Then we have

the East Molokai Watershed Partnership too.

We also monitor our water sources, North Waihee

and Iao aquifers, and the stream flows too, and then we

also participate in a wellhead protection program, which we

work with landowners on. That's an interactive group.

We're not just making things for them to do, we're getting

their participation in there too. Other things we do, as I

mentioned, is making sure that the water meets all state

and federal rules. We also do accounting, billing, and

purchasing, and permit reviews.

Our goals and objectives for this upcoming

fiscal year -- and you will see these often, especially

when you look over the capital improvement program -- meet

the Safe Drinking Water Act requirements, reduce the

effects of drought upcountry. I want to mention that we

haven't had required cutbacks for our customers in several

years now. Even though we have had droughts, we haven't

required our customers to reduce their consumption. Reduce

the draw on the Iao aquifer, continuing with our pipeline

replacement. As I mentioned, we have 750 miles of pipe.

Some of them are very, very old, so that does need to be

replaced. Developing new sources. And then as I had mentioned, protecting our watershed for future generations.

Compliance with regulations, you may already have heard of the now-infamous Lead and Copper Rule because of the upcountry issues that have been going on regarding the use of a phosphate to comply with this rule. We were using phosphoric acid in the upcountry water system to comply with this Lead and Copper Rule. The Lead and Copper Rule requires us to make sure that water coming out of peoples' faucets in their homes does not have lead. The lead would come from customers' plumbing and customers'

faucets, not from the Department of Water Supply system.

Even though the lead is coming from customers' homes, the EPA requires the water utility to treat the water if action levels are above their triggers, so we're doing that. We were using C-9. A couple of weeks ago we switched to phosphoric acid, which doesn't have the zinc in it, which we think was the problem with C-9, and we're waiting to see how that's going to affect customers, and if it will work. We will be taking lead tests in about four weeks or so.

Surface water treatment rules, that mainly

affects upcountry and Lahaina. Groundwater disinfection

rules, making sure that our water is clean and safe.

Getting our operators certified. Of course, security with

all the things that are going on now, and many other

things. The EPA makes most of these rules, and they're

enforced by the Department of Health Safe Drinking Water

Branch. And state standards are often more stringent than

the federal standards. So you might hear of two standards,

federal and state, but we're required to comply with the

state standards.

Upcoming projects that we're working on.

Pookela well, which is an item on the 10:00 am meeting today. That well has been drilled and we're working on a design contract, and then we will be working on the construction of that well later. Makamakaole well for Central Maui, something on the drawing board. Also the feasibility of a Lower Kula raw water reservoir for upcountry. That would be one of the big reservoirs. This one would perhaps be in the order of 2-300 million gallons.

Also, the USGS monitor drill rig will be coming to Maui probably next year, and that's what you see in the

picture there. That was when the monitor, I mean the drill rig was on Maui a couple of years ago. We had it at the Mahinahina water treatment facility, we had a monitor well drilled. And then of course pipeline replacement we're continuing to work on. And you will see that in our CIP, our capital improvement. Pipeline replacement gets the bulk of our funds. That's a real high priority.

Okay, now about the people that do all this work. We've got seven groups, the director's office, finance, engineering, water resources and planning, and these are all based on the fifth floor of the county building. And then we have our operations, field

operations and plant operations. They operate mainly out of our baseyard in Kahului, which is on the way to the airport. Water treatment facilities are at the treatment facilities. We also have smaller baseyards out in Hana, in Lahaina, and on Molokai.

Okay, table of organization. This is a little bit older one, so the names will be different.

CHAIRMAN NOBRIGA: Jacky?

MS. TAKAKURA: Yes.

CHAIRMAN NOBRIGA: Try back up and introduce the people, because they're all here.

MS. TAKAKURA: Okay. You already know our director, George Tengan, our deputy director, Jeff Pearson, water resources and planning program manager, Ellen Kraftsow, field operations chief, Bobby Vida, our plant operations manager, Bryce Fukuyama, our water treatment facilities manager, Paul Seitz, our fiscal officer, Holly Perdido, and our engineering manager Alva Nakamura is not here right now, but when he comes I will introduce him.

CHAIRMAN NOBRIGA: Thank you.

MS. TAKAKURA: Okay, down on the bottom you can see the six groups. Fiscal, which also takes care of

customer service, has about 31 positions, engineering 23 positions, water resource and planning, 4 positions, field operations, 69 positions. That takes the bulk of our staff. Plant operations 30, and the treatment facilities also 30. In all, we have about 160 or 170 employees.

Okay, and what each division does, starting with engineering, they review plans. Like when somebody wants to build a subdivision we would go over their plans and make sure that they all meet engineering standards, which is the same throughout the state. Prepare plans and specifications for projects, especially those done

in-house. Working on the capital improvement program,
working with consultants. As I mentioned, working on
in-house projects. And then inspecting projects as they're
being constructed. We have inspectors that go out there
and make sure that the construction companies do what they
say they're going to be doing.

Fiscal division, accounting, budget development,
which they do every year. The annual audit, which I should
have received for fiscal year 2002. We have an independent
auditor do our audit every year. Also long range financial
planning, advising you on fiscal matters. They also take
care of customer service and support, working with our

customers when they can't make a payment or when they need

to have a payment plan set up. They do our payroll, our

purchasing, inventory, maintaining our warehouse with all

the pipes and fittings for our guys when they need to fix

pipes, and then also processing bills and payments.

We had mentioned earlier that we don't have

customers on Lanai, but we do provide them water bills

because they get the county sewer, so we do the billing for

the water and the sewer. Okay, water resources and

planning. They take care of reviewing permits,

environmental review, working on all those regulations

coming from the EPA and the Safe Drinking Water Branch,

information systems, managing our water resources, and

conservation.

Okay, the biggest group we have are our field

operations division. They take care of all the

transmission and distribution, all those pipes. Responding

to customer complaints, like when someone calls in the

middle of the night saying that there's a broken water line

in front of their house. Installing, maintaining and

replacing storage tanks. As I mentioned, fixing water main

breaks, flushing, and also supporting our vehicles,

equipment, hydrants, the reservoir sites, valves. We have carpenters on staff and then also installing the new radio read meters. And fixing the meters, too, when there's problems.

Okay, plant operations. They take care of all of the deep well pumps and other pumps in other locations. We have electricians on staff. They monitor the deep wells and do the readings. The SCADA, which I had shown you previously. Chlorination, they control that water is disinfected and safe. Our laboratory is part of this division, taking samples. And also backflow and cross

connection, so making sure that other things cannot get into our water supply.

And our last group is the water treatment facilities. They take care of filtering and disinfecting the surface water. Upcountry Kamole, which is in Hali'imaile; Piiholo, which is in the Makawao Forest Reserve; and the Olinda water treatment facility, which is at the top of Olinda Road; West Maui, Lahaina, above the high school; and Mahinahina out by the airport; and then also the Central Maui facility near the Iao tank. They make sure that the water is in compliance with all the rules, and they take care of the operators being certified,

which is required by the Department of Health.

Things that we're looking at for the future, and this is kind of a reiteration of things that I brought up previously, is source development, watershed protection, pipeline replacement, of course compliance with the Safe Drinking Water Act, and to continue with our mission to provide clean water efficiently.

So that's basically what we do and the things that we are looking ahead at in the future. If there are any questions we have our staff, as I mentioned, here to answer questions, if you have any. We also have our

website there if you want to look up stuff later. Thank
you.

CHAIRMAN NOBRIGA: Thank you, Jacky.

Questions? Mr. Victorino.

MR. VICTORINO: Well, not so much of a question,
but a point of organization. Go back to the table of
organization, Jacky, please. Just so that there's no
misconception, it does say as of June 28, 2001, but our
organization would have substantially changed because we
have our customers still number one and foremost. Next
would be the Mayor and council after that. And we would be

actually out there as an advisory council, advisory board

to the Mayor and the council, so we would extend there.

And then between the customer, Mayor and then the director

himself. So just for that, so that the public and anybody

doesn't have a misconception of where we're at as far as

this, that would be really the new organizational change

that would take place. Thank you, Mr. Chair.

CHAIRMAN NOBRIGA: Thank you, Mr. Victorino.

Any other questions? Kenneth.

MR. OKUMURA: I wanted to ask about, you know,

the projected increases in income and expenses. How do you

base the increases?

MS. TAKAKURA: I'd like to call on our fiscal officer.

MS. RAISBECK: I couldn't hear the question, excuse me.

MR. OKUMURA: I was just wondering, I was wondering about the projected increases in income and expense. How do you figure -- do you just figure that's going to be coming from homeowners or I mean more water use, selling more water in the future, that's it?

CHAIRMAN NOBRIGA: Okay, thank you. Go ahead.

MS. PERDIDO: Basically we review all our

previous revenues and most, the majority of the revenues here is from water sales, the rest is small amounts that are comprised of sewer billing. I don't have them all right in front of me.

MR. OKUMURA: You're just projecting it?

MS. PERDIDO: We're just projecting, and we have about 600 new customers added every year. And we kind of look at, well, we look at the weather. It's just hard to really predict, so we just kind of project an amount based on past history.

MR. OKUMURA: Thank you.

CHAIRMAN NOBRIGA: Any other questions,

members? Mr. Victorino.

MR. VICTORINO: Again, going back to Jacky, you mentioned earlier on the upcoming projects, if you go back to that slide, the USGS monitored drilling rig will be here next year. My question is, how often are we able to get that rig here on Maui, because I know it's a matter of scheduling and it goes throughout the state. So how often and how long do we get to keep it? Or is it George, okay, sorry.

MR. TENGAN: The normal rotation for that drill

rig is once every six months. Not once every six months, but it's for a six-month period following the City and County of Honolulu and Kauai. There are three counties participating in the operations of the drill rig.

Originally Maui wasn't in that partnership. However, a couple of years ago Honolulu wanted to pull out, so they asked us if we were interested in purchasing their interest in the drill rig, and the board authorized that purchase, so the department went ahead.

And the rig has been on Molokai and Maui one time already to drill some monitor wells for some Hawaiian

Homes projects. The operations of that was paid with federal funds, so the board didn't expend any monies for that purpose.

Anyway, it's coming to this island next year and we expect to do a couple of wells. These wells are primarily for exploratory and for monitoring purposes. They cannot be turned into production wells.

MR. VICTORINO: So, you know, that was my next question. When it does come to Maui, or let's say Maui, is it very portable enough to move around or it stays in one location, and you just mentioned a couple. Is there a time frame, like if you are going to go to say, let's say one of

those sites in like Pookela, for example. If it went there what would be the normal frame of time you would need to get accurate readings?

MR. TENGAN: Well, that would depend upon the geology of the site. It's soft soil, you know, it wouldn't take as long as let's say drilling through some blue rock or something like that. And it would also depend upon the elevation at which you're drilling. So depending upon the sites we select where we need more data, that's going to determine how many wells we can get during the six-month period.

MR. VICTORINO: Thank you, Mr. Tengan.

CHAIRMAN NOBRIGA: Yes, Sally.

MS. RAISBECK: Just to follow up, George, this rig only can drill an exploratory or monitor well which would be smaller than a production well. It couldn't drill a production well if it wanted to?

MR. TENGAN: The rig itself could probably drill a production-size well. However, the agreement with the USGA is the wells would only be used for exploratory and/or monitoring purposes.

CHAIRMAN NOBRIGA: Any other questions members?

Thank you, Jacky. We will now have a ten minute recess.

(Whereupon a brief recess was had).

CHAIRMAN NOBRIGA: Reconvene the meeting, the orientation of new members and board. The next item on our agenda for today is a presentation on the actual status of our rules and responsibilities -- excuse me, Mr. Victorino -- presented by our Honorable Corporation Counsel Ed J. Kushi, Junior. Mr. Kushi.

MR. KUSHI: Mr. Chair, thank you. I think Cathy passed out a handout to you, you should have it dated March 4, 2003. And just to summarize what I'm going to say

today, this is a memo from our office to Danny Mateo, who is the chair on the council of Water Resources Committee, the newly-formed committee, and in response to his request. The meat of the memo, two pages, kind of outlines our response to his inquiries as far as what the council can do since the charter change. But for my purposes, the February 18th notes attached is what I will cover, and it's probably four pages, and I will just kind of summarize the charter changes.

What I've done, what I did was summarize the charter changes that affected one, the Board, two, the department and its director, three, the council, and four,

the mayor. And then subsequently, based on those changes,

what we thought were the rules of each entity or body. And

I will just concentrate this morning on the board and the

department.

As you know, the electorate decided to vote, I

guess it was charter change 9-A, and our office has said

that that became effective on December 5, 2002. Based on

those changes, we summarized that the charter change that

affected the board from the previous charter, from the

previous charter, are as follows: One, that the changes as

far as the board is concerned, it delegated to the board

the authority to act as an advisor to the director, the Mayor, and the council in all matters concerning our county water system. Let me emphasis that. We don't deal with private water systems.

Two, it delegated to the board the authority to recommend the establishment and adjustment of rates and charges for water service, which would then go to the Mayor.

Currently, well, I guess previously how the system worked in terms of rates and charges were that the rates and charges are following the rules. And previously

your rules were amended. If you wanted to change up or down the rates or charges you made a rule change. That rule went through the board, it went to public hearing, then it went to the mayor's office. Then the mayor's office set a time limit to either -- previously, in I guess the previous administration, the previous charter change previous to 19 -- anyway, when Lingle was here, the mayor in essence had a veto power. If the mayor didn't like the change, it didn't go down.

Then subsequently there was a charter change saying that the mayor had a time period, and if the mayor

didn't act it would automatically go to the council. Then the council would look at it and then say yes or no. They couldn't mess around with the rates, it either was up or down. Anyway, as a result of the changes, none of this happens now. And I'll get into your rules later.

Number three delegated to the board the authority to review and submit, review and submit to the mayor the department's budget, which previously the board just did a budget, it didn't go anywhere. Now only the County council does budgets. The department is cast as a regular department similar to Public Works, similar to Planning, the Prosecutor's Office, et cetera.

Okay, four, the changes deleted the following powers from this board. Power to appoint, evaluate and remove people, like the people next to me on my left, the director; power to create and abolish positions; power to adopt rules and regulations having the force and effect of law. Okay, that got deleted. Power to adopt a budget; power to issue revenue bonds; power to accept, acquire, appropriate, sell real property.

The last one has put us in quite a bind in terms of holding, accepting, acquiring, or selling real property. Previously the board had directed, delegated to

the director the authority to accept easements, to accept tank sites. Now as a regular department only the council can accept real property and we've come into sort of like a standstill situation where subdividers that need that pursuant to our rules are required to give us easements. We can't accept, we have to go to the council. That takes three to four months. We have tried to work out that situation. If the board had acquired property previously and wanted to sell it or do something else, you can't do it now, it has to go to the council. Only the council can dispose of or accept real property.

Further, going on, changes that affected the department and its director, it delegated to the department the duty to manage and operate, same situation. It delegated to the department the duty to make studies, surveys, and investigations regarding water systems, sources. Same status quo. It delegated to the department, a little bit more specific, the duty to prepare and update long-range CIP programs, capital improvement and water use and development plans for council approval.

Okay four, deleted from the department, deleted the department's full and complete authority to manage and

control water systems. You know that may be a typo. Let me think about that.

Five, as to the director, deleted the power to recommend rules and regulations for adoption by the board. I will get into that. Deleted his power to appoint his deputy. The next page are situations as far as affecting the council and the mayor, and you can look at it and ask any questions. I want to concentrate on the board and the department for now.

On the last, I mean the third page in terms of rules, moving onto the bottom of the page on the department, now we feel that the department's role is the

duty to manage and operate all water systems, county water systems; duty to make studies, surveys, investigations; duty to prepare and update long-range CIP plans and long-range development plans for council approval; perform other such duties and functions as shall be prescribed by law.

In terms of the board's roles, it's basically

four: Authority to act as an advisor to the director, the mayor and the council; authority to recommend establishment and adjustment of rates for water service and submit same to the mayor. And I will get into that later in the

rules. Three, authority to review the department's annual budget and submit same to the mayor, who in turn submits it to the county; and four, perform such other duties and functions as prescribed by law.

Now, in terms of your rules, Member Raisbeck brought this up and it has been brought up several times. Our office issued an opinion dated December 5, 2002, and you are free to get a copy if you want it. In essence, we were saying that your board, your rules adopted, promulgated correctly previous to the charter changes, they don't go away, they still exist. Chapter 91 HRS basically

says that an agency, be it the board or the department, who is authorized, who is authorized by law to enact rules, once they're enacted they have the force and effect of law until repealed. So your rules still exist, they're not interim rules. I need to talk to Mr. Kim about that. They're not interim rules.

However, due to the charter change regarding rules, powers, duties of this board, as well as the department, we have taken the position that your board, your rules exist unless in conflict with the charter, unless inconsistent with the decisions or the implications

of the charter amendments. Likewise, there are certain situations in your rules where you can overrule the director. Appeals. The charter says you can only advise the director. Now, therefore, it's our opinion, if asked, that that rule is inconsistent. However, the balance of your rules, including rates and fees, still exist.

As to how you can change the rules, it's an ongoing sticky situation. HRS 91 -- I forgot what is -- in its definitions of agency, meaning the board, the department, boards and commissions, there's a set procedure to amend, enact, repeal rules and promulgations and notices and all that. However, under the definition of agency, it

does specifically say any agency authorized by law shall do the following to amend or repeal or amend rules.

We cannot find at this point the department as an agency, the board as an agency, you are not authorized.

The charter specifically wiped that out. So we're stuck in a situation where you have existing rules, and if they conflict with the charter, they're superseded. However, if you want to amend it, nobody can amend it.

We have advised the council of this, and we will continue to advise the council that what they should do or what we will suggest is enact an ordinance. And where it

says as prescribed by law, enact an ordinance either authorizing the board or the department to promulgate rules. Whether it goes to the council for approval or the mayor or whatever, prescribe a procedure.

If no procedure is prescribed, Chapter 91 specifically states the department as an agency authorized by ordinance can do public hearings on rules. And if the department is satisfied after public hearing, can amend the rules. But then it needs to be submitted to the mayor's office as the chief executive of the county. And if the mayor is satisfied, he signs off. Then it goes on to the

county clerk's office. That's the set statutory Hawaii procedure.

The previous rules deviated from that in that it went to the council, okay. So again, that's the status of your rules right now. That's it, Mr. Chair.

CHAIRMAN NOBRIGA: Thank you, Mr. Kushi. Any questions, members?

MS. RAISBECK: Yes.

CHAIRMAN NOBRIGA: Yes, Miss Raisbeck?

MS. RAISBECK: I would like to tell you what I heard you say, I think, and then you tell me if I missed

something there.

MR. KUSHI: I will try my best.

MS. RAISBECK: So you're saying that to get new rules -- obviously some of the present rules are in conflict with the charter, and it will be a messy situation if in time we have to look at them and see if this is in conflict or not, because there could be two opinions about that. But to get new rules, the council needs to just pass a simple ordinance that says the department has the authority to promulgate rules as an agency, and that would need to be simple. That wouldn't need to go into the changes in the rules, correct? It would just be an

ordinance that gave them the authority, is that correct?

MR. KUSHI: That would be our office's response and suggestion. Just say that. Pass an ordinance which would then fit into your charter language saying as prescribed, as otherwise prescribed by law. The ordinance would be law authorizing the department or the board to promulgate rules.

MS. RAISBECK: And then the director could set up new rules, revise the old ones to be in conformance with the charter, and make any other changes that might seem good to him. And then he could put that out with the

public hearing and go through the rule making process

whereby there's a public hearing. If there aren't any

major changes as a result of that public hearing, then it

would go from the director -- I mean I'm talking real

authority now -- from the director to the mayor, and if the

mayor signed them, that's it. And our role in this would

be advisory. We could advise the director about what we

thought the rule should be. We could advise the mayor.

But there's no role for the council in this arrangement,

correct?

MR. KUSHI: You know, at this point, and I'll

respond at this point, subject to change, I would say you could do one of these ways. You could just say authorize the department as an agency to promulgate rules pursuant to Chapter 91 HRS as set procedure, and that procedure says the department conducts public hearings. I'm assuming the department would come to this board first. It goes out and submits it to the mayor. The mayor likes it and signs off. The mayor doesn't like it, too bad, he's the one that signs off. That's one suggestion, scenario.

The second one, the council could say the board has the final authority. You have got to set this in

ordinance. Say the council could say do this procedure,

but the council has the final authority. Lastly, they may

say the board has the final authority.

Again, it's a close call because of the charter,

the language of the charter the intent of the charter. And

if one would challenge it, is it inconsistent with the

charter? And there's not too much intent, language that I

can glean from the charter commission's discussions on this

amendment 9-A. That's unfortunate because there were no

provisional carry-over provisions when we discussed this

amendment 9-A, so we kind of have to just guess. I

shouldn't say guess, strike that. Budget director's

guess.

MS. RAISBECK: So to recapitulate again, you mentioned three options, but which option, which route was followed in making the rules would depend upon the ordinance the council passed?

MR. KUSHI: That's correct, because they can only prescribe laws.

MS. RAISBECK: Okay. So they would pass authorizing some entity, some procedure for making rules.

MR. KUSHI: Correct. Now, in terms of hierarchy of a law, first you have state statutes, then you have the

charter. And the case law says the state statute is a total statewide concern. It preempts everything. If it's strictly administrative, executive functions, not a statewide concern, your charter would control. That's the HGEA case in 1998.

Then you have your county ordinances. Only the council can pass county ordinances. If I were to challenge something, I would say council -- I mean I would say, you know, challenge the county ordinance about rule making. I would challenge it in saying this: The electorate said the charter is this. The charter takes rule making away from

the board. Now, council, you pass an ordinance giving it

back to the board. What's the situation?

I'm just giving you situations. But

unfortunately, there were no provisional carry-over

discussions and intent by the council or the Charter

Commission in this amendment.

CHAIRMAN NOBRIGA: Thank you. Any other

questions, members? Thank you. At this time we go to item

D, distribution of board materials, which would be your

annual report, your financial summary, the new and improved

charter of the County of Maui, and also the rules and

regulations of the Department of Water Supply.

Unfortunately, Cathy was unable to secure assistance in

transporting this bulk of material down here, and they will

be forwarded to you postwith, with expediting whatever it

is. Okay? No further business, the meeting of orientation

is adjourned.

(Whereupon the orientation meeting was adjourned

at 10:00 a.m.)

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