



92-10

LINDA CROCKETT LINGLE
Mayor
TELEPHONE 243-7855

MAUI COUNTY BOARD OF ETHICS
c/o DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE 243-7740

February 6, 1992

MEMO TO: Mayor, Maui County Council,
Department Heads, First
Deputies, and Chairperson of
the following Boards and Commissions:

Board of Variances and Appeals
✓ Charter Commission
Civil Service Commission
Board of Code Appeals
Board of Review
Grants Review Committee
Maui Historic Commission
Liquor Control Commission
Liquor Control Adjudication Board
Maui Planning Commission
Police Commission
Police Pension Board
Maui Redevelopment Agency
Board of Water Supply
Salary Commission
Molokai Planning Commission

F R O M: Board of Ethics ~~92~~

SUBJECT: FINANCIAL DISCLOSURE STATEMENTS

Under Section 10-3 of the Maui County Charter, financial disclosure statements are required to be filed by all candidates for elective office within fifteen (15) days of filing nomination papers and by all appointed County Officers with significant discretionary or fiscal powers (all executive and legislative department heads and first deputies; members of Boards and Commissions) within fifteen (15) days of taking office.

Thereafter, all elected and appointed officers are required to annually update their financial disclosure statement to reflect any changes with regard to any of the following items:

1. Source and amount of income;
2. Real property interests;
3. Business interests;

Mayor, et al.
February 6, 1992
Page 2

4. Officer or director positions;
5. Debts;
6. Insolvent business;
7. Representation of person or firms.

If any of the foregoing items have changed since you last filed a disclosure form, please file a new disclosure statement showing the change in circumstances. Forms may be obtained from the Department of the Corporation Counsel. The Board of Ethics requests that you file your updated statement by March 31, 1992. The Board of Ethics further requests that copies of this memorandum be circulated by the Board Chairperson to all Board Members.

If you have any questions with respect to this matter, please contact the Department of the Corporation Counsel.

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LINDA CROCKETT LINGLE
Mayor
TELEPHONE 243-7855



92-11

MAUI COUNTY BOARD OF ETHICS
c/o DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE 243-7740

M E M O R A N D U M

T O : CHARTER COMMISSION
F R O M: BOARD OF ETHICS
D A T E: February 14, 1992
**SUBJECT: Recommended Amendments to Article 10, Code of Ethics,
Maui County Charter**

The Board of Ethics recommends that Article 10 of the Maui County Charter be amended to include the following:

1. Use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others and seek other employment or contract for services for himself by the use or attempted use of office or position.

2. Amend Section 10-4(c), Maui County Charter to read:

Use county time, equipment, property, facilities, or personnel for other than public activity or purpose.

3. Solicit, sell, or otherwise engage in a financial transaction with a subordinate or a person or business whom he inspects or supervises in his official capacity.

4. Take any official action directly affecting:

a. A business or other undertaking in which he has a financial interest; or

b. A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

A department head who is unable to disqualify himself on any matter described in items (a) and (b) above will not be in violation of this subsection if he has complied with the disclosure

requirements of Section 10-3; and

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which he has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

5. Acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

6. Assist any person or business or act in a representative capacity before any county agency for a contingent compensation in any transaction involving the county.

7. Assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which he has participated or will participate, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the council or agency of which he is an employee.

8. Assist any person or business or act in a representative capacity before a county agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if he has official authority over that county agency unless he has complied with the disclosure requirements of Section 10-3.

If the Charter Commission accepts the Board's proposed amendments, the Board's requests that Section 10-4(d) of the Charter be deleted.

/ek
c:\note\charter

92-12

LINDA CROCKETT LINGLE
Mayor
TELEPHONE 243-7855



OFFICE OF THE MAYOR
COUNTY OF MAUI
WAILUKU, MAUI, HAWAII 96793

February 18, 1992

Benjamin J. Cayetano
Lieutenant Governor
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Lt. Governor Cayetano: *Ben*

Thank you for your letter of February 12, 1992, regarding the deadline to submit questions/issues for the ballots on the upcoming elections. I have forwarded a copy of your letter to the Chairman of our Charter Commission for his information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda", is written above the printed name.

LINDA CROCKETT LINGLE
Mayor, County of Maui

LCL:mlg

cc: Robert Nakasone



OFFICE OF THE LIEUTENANT GOVERNOR
STATE CAPITOL
HONOLULU, HAWAII 96813


BENJAMIN J. CAYETANO
LIEUTENANT GOVERNOR

(808) 548-2544
Ref.92020002

February 12, 1992

The Honorable Linda Crockett Lingle
Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

Dear Mayor Crockett Lingle:


We are in the process of preparing for the 1992 elections. To meet legal requirements for ballot preparation, I request your assistance in meeting the 60-day deadline for submission of ballot questions and issues (i.e., charter amendment and initiative). According to Section 11-119 of the Hawaii Revised Statutes:

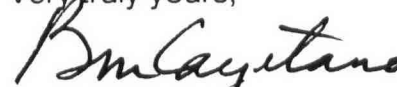
"Whenever the chief election officer is responsible for the printing of ballots, the exact wording to appear, thereon, including, but not limited to, questions and issues shall be submitted to the chief election officer not later than 4:30 p.m. on the sixtieth calendar day prior to the applicable election."
[emphasis added]

Accordingly, the exact wording of any ballot questions or issues must be submitted to my office by:

1. Primary Election: 4:30 p.m., Tuesday, July 21, 1992; and
2. General Election: 4:30 p.m., Friday, September 4, 1992.

Should you have any questions regarding this matter, please contact Laura Shimada of my Election Services Division at 1-800-442-VOTE.

Very truly yours,



Benjamin J. Cayetano
Lieutenant Governor

BJC:LS:ak

cc: Daryl Yamamoto, County Clerk

92-13

February 20, 1992

Mr. Robert Nakasone, Chairman and
Members of the Maui County
Charter Commission
County of Maui
Wailuku, Maui 96793

Subject: Concerns related to the Department of Water Supply, and
proposed amendments to Chapter 11 as they relate to
these concerns.

Dear Mr. Chairman and Members of the Commission,

I have come to this meeting to discuss with you actions of the Board of Water Supply as they relate to compliance with the Charter of this County. I am very concerned that the Board has been distracted from it's responsibility to oversee actions of the Department of Water Supply to insure that there be a just and fair distribution of water to the people of the County within the limits of the water resources available.

Actions of the Board suggests a need to amend the section of the Charter granting "semi autonomy" to the Department of Water Supply, because in practice the department has acted with complete authority, the Charter notwithstanding. The delineation of authority needs to be specified.

For example, the 1988 Charter Amendment required that the Department implement the General Plan and community plans "in the administration of its affairs". The Paia - Haiku Community Plan under Support Systems: Water states "...develop new potable water sources prior to further expansion of the State Urban District boundary prior to major subdivision of land in the State Agricultural or Rural District." There has been extensive development of agricultural land in Haiku with no development of new potable water sources. Item 31 of the 1992 Capitol Improvement Projects of the Department requested funding for participation in the construction of a transmission line for a development in Haiku.

The revised General Plan, adopted by the Council last year, contains this policy concerning Agriculture "Insure the availability of adequate irrigation water for agricultural purposes during period of limited rainfall.", as well as "develop sufficient water supply during drought seasons so as to keep agricultural activities viable." The Budget approved by the Board contained appropriations of \$1 million dollars for the construction of a "temporary" pipeline to divert water from the Wailoa ditch in Paia to the Central Maui water system. *

The Department has ignored Article 9 of the Charter as it relates to the adoption of the Department's 1992 Capitol Improvement Project budget; it approved a budget without revenue sources to pay for the projects contained in the budget and has expended funds without these sources in place. #Tape

The Department is approving requests for development with the provision that "water may not be available for construction." which appears in conflict with Rules and regulations 2 of the Department, section 2 - 1. Most recently, the Board proposed significant changes to the existing rules of the Department. These changes included the inclusion of a second set of definitions concerning the meaning of terms found in the rules; establishment of a Variance procedure; and elimination of the formula for determining "proportionate share" of cost related to the impact on the community of development.

I urge you to consider amending Chapter 11 to return the power to approve the Annual Budget to the Council, and to clarify responsibility of the Board of Water Supply to insure that the department preserve and maintain water services to existing users without undue reduction in the amount of water received in considering the interests of persons desirous of new water services.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "J. R. Smith", written in a cursive style.

February 20, 1992

To: The Maui County Charter Commission

From: Jim Smith
449 Kapuai Road
Haiku, Maui 96708

SUBJECT: Introduction of a RESOLUTION to amend Chapter 11,
Department of Water Supply by Jim Smith.

Whereas, the Charter of the County of Maui which was adopted by the voters in the general election of 1982 and as amended increased the accountability of the elected and appointed officials to the public;

Whereas, the Mayor and the County Council have the responsibility for rates assessment, fees and other revenue sources in order to preserve public trust and confidence in governance, and to insure fairness, and just and equal treatment of all citizens;

Whereas, elected officials should have exclusive authority over the expenditure of public monies and revenues derived from sale of public resources;

Whereas, the public interest will be better served by limiting the authority of the Board of Water Supply to duties related to the overseeing the operations of the Department to insure compliance with the Rules and Regulations of the Department, the Charter, State and Federal laws;

Whereas, actions by the Department of Water Supply demonstrate that clarification in the charter of the Board's duty to oversee the actions of the Department is desirable;

THEREFORE, BE IT RESOLVED that Article 8, Chapter 11 be revised to read:

SECTION 8-11.1 Organization. There shall be a department of water supply consisting of a director, a deputy director and the necessary staff, and a Board of Water Supply.

SECTION 8-11.2 Functions of the Department.

2. The department shall manage, control and operate water systems and properties used in connection with such water systems.

SECTION 8-11.4 Powers, Duties and Functions. The board of water supply shall:

1. Insure a just and fair distribution of water resources and systems available; preserve and maintain water services to existing users without undue reduction in amount of water received or services rendered; and, when considering the interest of persons desirous of new water services, the board shall insure that the department has a sufficient water supply developed for domestic use and fire protection to take on new or additional service without detriment to those already served.

3. Adopt rules and regulations which shall have the force and effect of law relating to the [management] control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for furnishing water subject to the approval of the County Council; such rules and regulations shall be adopted as provided under Section 8-11.8 below.

4. Prepare an annual operating and capital budget subject to approval of the County Council, and as provided in Article 9 of this Charter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "J. Smith", written in a cursive style.

NEW BUSINESS

Maui Land & Pineapple Water Agreement. The Department is requesting the Board's approval of the second amendment to the agreement for water purchase.

Presentation. The Director referred to his letter to the Board dated January 19, 1990. He stated that the first agreement was to purchase water from Maui Land & Pineapple, 1.5 mgd from Honolulu ditch, at \$50 per million gallons. The Department has been negotiating over a year with Maui Pine to withdraw additional water from Honolulu Ditch. They have tentatively agreed to an additional one million gallons, for a total of 2.5 mgd for Lahaina. The Director highlighted the conditions of the agreement:

1. That Maui Pine be exempt from source assessment fees, up to the equivalent of 1.0 mgd.
2. That the intakes be relocated from Alaeloa to Mahinahina.
3. That under drought conditions, the Department will institute conservation measures.

The term of the agreement is 30 years.

Responses to questions. The treatment plant in Lahaina is being designed to accommodate the additional 1.0 mgd. The big item is the exemption. It exempts Maui Pine not only in Lahaina, but on the entire island of Maui. However, the exemption applies only where water is adequate. On one hand, we need the water for the treatment plant in Lahaina, which we have designed for 2.5 mgd. It does not cost significantly more to build a 2.5 than a 1.5 mgd plant. On the other hand, it would mean less revenue for the County. We do not get money, but then, we do get water. The existing exemption provision exempts government projects and those who develop their own water. In this case, Maui Pine is willing to give us an additional 1.0 mgd in exchange for an exemption. The Director indicated that he believed it was a fair and equitable agreement.

Mr. Cabral asked whether Maui Pine's future development would be on this side of the island, or in Lahaina. The Director suggested there is a possibility that they may develop in Haliimaile, and if there is an assessment Upcountry in the future, they would be exempt under the terms of the agreement. Currently Upcountry does not

Return
to J. Smith

Draft 11/07/91

AMENDMENTS TO THE
RULES AND REGULATIONS OF THE
DEPARTMENT OF WATER SUPPLY
OF THE COUNTY OF MAUI

SECTION I. Rules and Regulations No. 1 is amended as follows:

A. Section 1-2 is amended by deleting the definition of facilities reserve charge.

B. Section 1-2 is amended by adding the following definition:

"Assessment fee--The assessment imposed on an applicant at the time that approval is requested for a subdivision, building permit, or water service or additional water service."

SECTION II. Rules and Regulations No. 2 is amended as follows:

A. Section 2-2 is amended by deleting subsections (d) and (e) in their entirety.

B. Rules and Regulations No. 2 is amended by adding the following subsection 2-17:

"Sec. 2-17 Assessment Fee. Subdivisions shall be subject to an assessment fee under the board's chapter 8."

SECTION III. Rules and Regulations No. 3 is amended as follows:

A. Section 3-1 is amended by deleting the second sentence in subsection (c).

B. Section 3-1 is amended by adding the following subsection (g):

"(g) Developments shall be subject to an assessment fee under the board's chapter 8."

B. Section 3-4 is amended by adding the following subsection (e):

"(e) Applications for water service and additional water service shall be subject to an assessment fee under the board's chapter 8."

C. Section 3-5 is amended by deleting subsection (h) in its entirety.

D. Section 3-5 is amended by renumbering subsections (i), (j), (k), (l), and (m) to subsections (h), (i), (j), (k), and (l) respectively.

SECTION IV. The Special Rule Establishing A Source Assessment Fee; Allocating Water Usage On An Annual Basis; And Regulating The Approval Of Subdivision Applications, The Approval Of Building Permits, And The Issuance Of Water Meters Within The Central Maui Areas Which Are Provided Public Water Service From The Mokuahau, Iao-Kepaniwai, Waiehu-Waiehu Associates, And Waiehu-Central Maui Water Sources, which took effect on September 24, 1979, is repealed.

SECTION V. The Special Rule Establishing A Source Assessment Fee Allocating Water Usage On An Annual Basis And Regulating The Approval Of Subdivision Applications, The Approval Of Building Permits And The Approval Of Water Meters In The West Maui Areas Which Are Provided Public Water Service From The Kanaha, Waipuka, Alaeloa, Napili And Honokahua Water Sources And Systems, Including Other Sources And Systems, which took effect on October 20, 1980, is repealed.

SECTION VI. Severability. If any provision herein or its application to any person or circumstances is held invalid, the application of such provision to other persons or circumstances, and the remainder herein shall not be effected thereby.

SECTION VII. Effective date. This amendment shall become effective ten days after being filed with the county clerk of the county of Maui.

Adopted on the _____ day of _____, 19____ by the board of water supply of the county of Maui.

Larry Jefts
Its Chairperson

Draft 11/07/91

APPROVED AS TO FORM
AND LEGALITY:

Howard Fukushima
Deputy Corporation Counsel

Approved this _____ day of
_____, 19____

Linda Crockett Lingle
Its Mayor

Received this _____ day of
_____, 19____

Daryl T. Yamamoto
County Clerk

TITLE 16

BOARD OF WATER SUPPLY
COUNTY OF MAUI

CHAPTER 8

ASSESSMENT FEES

§16-8-1	Purpose.
§16-8-2	Definitions.
§16-8-3	Applicability.
§16-8-4	Assessment fee.
§16-8-5	Payments of assessment fee.
§16-8-6	Subdivision.
§16-8-7	Building permit.
§16-8-8	Water service.
§16-8-9	Applications of credit.
§16-8-10	Exemptions from the payment of assessment fees.
§16-8-11	Variances.
§16-8-12	Assessment fee account.
§16-8-13	Severability.

§16-8-1 Purpose. The purpose of this rule is to establish an assessment fee that is applicable to applications for water service and developments that will require water service or additional water service from any of the department's water systems, and to establish an account for the deposit of collections therefrom. [Eff _____] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-2 Definitions. For the purposes of this rule, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases are defined as follows:

"Additional water service" means a provision for additional water through the installation of an additional water meter, consolidated metering system, or the replacement of an existing water meter with a larger-capacity water meter.

"Applicant" means a person who applies for (1) water service or additional water service, (2) a building permit for the construction of any structure on any premises for which water service or additional water service will be required, or (3) subdivision.

"Application" means an application for water service or additional water service, a building permit, or a subdivision.

"Assessment fee" means an assessment imposed on an applicant at the time that approval is requested for a subdivision, building permit, or water service or additional water service as

a proportionate share for capital costs in constructing water system improvements.

"Building permit" means the official document or certificate issued by the county authorizing the construction of any structure.

"Board" means the board of water supply of the county of Maui.

"County" means the county of Maui, a political subdivision of the state of Hawaii.

"Credit" means the amount of money that an applicant or an applicant's predecessor in interest has paid for source development, construction of a transmission pipeline, the construction of a storage tank or reservoir, or a combination of any of the foregoing; or the amount of source capacity, in gallons, that the applicant or the applicant's predecessor in interest has developed or has participated in developing; or the amount of storage capacity, in gallons, that the applicant or the applicant's predecessor in interest has constructed or participated in constructing.

"Department" means the department of water supply of the County of Maui.

"Development" means the erection of one or more structures, the subdivision of real property into two or more developable lots, or the use of any premises which may not involve the erection of any structure or a subdivision, but requires water service or additional water service.

"Director" means the director of the department of water supply of the county of Maui.

"Person" means an individual, firm, partnership, company, corporation, association, syndicate, or any legal entity, including but not limited to a trustee, receiver, assigner, or similar representative thereof.

"Premises" means the parcel of real property which already has water service or will require water service.

"Service lateral" means the connection to a pipeline, pipes, fittings, valves, and other appurtenances from the connection to the pipeline and up to and including the gate valve after the water meter box, but not including the water meter.

"Source development" means the construction of or improvements to any intake structure to capture surface waters and a conduit to convey untreated water from the intake structure to a storage reservoir or water treatment plant; the construction of a storage reservoir; the construction of, improvement to, or expansion of a water treatment plant; or the development of a ground water source.

"Storage reservoir" means a structure to store untreated water.

"Storage tank" means a structure to store treated water.

"Structure" shall have the same meaning as defined in the uniform building code as adopted, amended, or replaced by the county.

"Subdivision" means land or lands divided or proposed to be divided into two or more lots.

"Transmission pipeline" means a pipeline that transmits water rather than distributes water.

"Water meter" means a device owned by the department that measures the quantity of water delivered to a premises.

"Water service" means a provision for delivering water through the installation of a service lateral and a water meter or meters, or a consolidated metering system from any of the department's water systems.

"Water system improvement" means any proposed capital improvement project contained in the department's budget which will increase the source, transmission, or storage capacity, or improve the quality of water in any of the department's water system or portions thereof. [Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-3 Applicability. This rule shall be applicable to applicants and premises for which a subdivision, building permit, or water service or additional water service is applied for, except as exempted or to be exempted under section 16-8-10. This rule shall not be applicable to any development that is not or will not be provided water from any of the department's water systems. [Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-4 Assessment fee. (a) The assessment fee shall consist of separate fees attributable to:

- (1) source development;
- (2) the construction of or improvements to transmission pipelines, or the replacements of existing transmission pipelines with larger-capacity transmission pipelines; and
- (3) the construction of storage tanks.

(b) Assessment fees shall be paid in accordance with the following schedule:

Schedule of Assessment Fees

<u>Meter Size</u>	<u>Source</u>	<u>Trans- mission</u>	<u>Storage</u>	<u>Total Assess- ment fee</u>
5/8"	\$ 750	\$ 1,600	\$ 1,000	\$ 3,350
3/4"	1,050	2,240	1,400	4,690

1"	1,950	4,160	2,600	8,710
1 1/2"	4,350	9,280	5,800	19,430
2"	7,650	16,320	10,200	34,170
3"	17,250	36,800	23,000	77,050
4"	30,750	65,600	41,000	137,350
6"	69,150	147,520	92,200	308,870
8"	122,850	262,080	163,800	548,730
[Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)			

§16-8-5 Payment of assessment fee. An assessment fee shall be paid to the department prior to the department's approval of any application for water service or additional water service; provided that if the application for water service or additional water service is preceded by an application for subdivision or building permit, the assessment fee shall be paid prior to the department's recommendation for final approval of the subdivision or approval of the building permit.

[Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-6 Subdivision. An assessment fee shall be imposed on any application for subdivision, based on the number of water meters required in the subdivision and in an amount equal to the number of water meters required times the assessment fee schedule for a 5/8-inch water meter as contained in the schedule of assessment fees by water meter size in section 16-8-4, less any credited amount.

[Eff] (Auth: HRS §54-33)

(Imp: HRS §54-33)

§16-8-7 Building permit. An assessment fee shall be imposed on any application for building permit, based on the number of water meters required and the sizes thereof, as determined under chapter 16.20 of the Maui County Code, and in amounts corresponding to the water meter sizes as contained in the schedule of assessment fees by water meter size in section 16-8-4, less any credited amount.

[Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-8 Water service. (a) An assessment fee shall be imposed on any application for water service, based on the number of water meters required, the water meter sizes, and the assessment fee rates corresponding to the water meter sizes as contained in the schedule of assessment fees by water meter size in section 16-8-4, less any credited amount.

(b) An assessment fee shall be imposed on any application for additional water service, which amount shall be the difference between the assessment fee amounts corresponding to

the water meter sizes as contained in the schedule of assessment fees by water meter size in section 16-8-4 of the existing water meter size and the requested water meter size, less any credited amount.

(c) An applicant requesting the reduction of a water meter size shall not be entitled to any reimbursement.

(d) Reimbursement of assessment fees shall not be made with the termination of water service. [Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-9 Applications of credit. (a) Any applicant who is a successor in interest to a premises may be required to submit evidence of any credit, which may be claimed for the premises.

(b) Credits shall be applicable only to premises which can be served by the source, transmission pipeline, and storage tank which the applicant or the applicant's predecessor in interest has developed or constructed, or has participated in developing or constructing.

(c) Any credit in source capacity, in gallons, which the applicant or the applicant's predecessor in interest has developed or has participated in developing; or in storage capacity, in gallons, which the applicant or the applicant's predecessor in interest has constructed or participated in constructing shall be debited in an amount equal to the number of water meters times the average water consumption by water meter sizes as contained in the department's standards.

(d) Any storage assessment that the applicant or the applicant's predecessor in interest paid pursuant to rules and regulations No. 2, which took effect on January 7, 1977, as amended; or a source assessment pursuant to the special rule establishing a source assessment fee allocating water usage on an annual basis and regulating the approval of subdivision applications; the approval of building permits and the approval of water meters in the west Maui areas which are provided public water service from the Kanaha, Waipuka, Alaeloa, Napili and Honokahua water sources and systems, including other sources and systems, which took effect on October 20, 1980, or the special rule establishing a source assessment fee; allocating water usage on an annual basis, and regulating the approval of subdivision applications, the approval of building permits, and the issuance of water meters within the central Maui areas which are provided public water service from the Mokuahau, Iao-Kepaniwai, Waiehu-Waiehu associates; and Waiehu-central Maui water sources, which took effect on September 24, 1979, or a combination of any of the foregoing shall be credited to the premises to the extent that the credits shall be limited to those portions of the assessment fee relating to source and storage, as applicable, and the equivalence of a 5/8-inch water meter for residential lots and the size of water meter approved for developments other than

subdivisions. [Eff
HRS §54-33)

] (Auth: HRS §54-33) (Imp:

§16-8-10 Exemptions from the payment of assessment fees.

(a) Any request for final subdivision approval under section 2-16 of the board's rules and regulations No. 2; provided that the assessment fee shall be paid under section 16-8-7 or 16-8-8, whichever occurs first.

(b) Any application for building permit for the construction of any structure shall be exempted from paying an assessment fee if the structure and the premises upon which the structure will be constructed do not require the installation of a water meter, a larger-sized water meter, or a consolidated metering system; provided that the applicant may be required to submit supporting evidence that the structure and the premises do not require the installation of a water meter, a larger-sized water meter, or consolidated metering system for the approval of the department.

(c) Any application for a temporary water meter.

(d) Any application for a second water meter on a premises if the limited purpose of the second water meter is to separate billings for water service for an accessory dwelling.

[Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-11 Variances. (a) Variances to defer payment of assessment fees may be granted by the board in cases where the county proposes to pay the assessment fee. Any variance granted shall be conditioned upon the applicant entering into an agreement with the board, wherein the applicant agrees to pay the assessment fee if the county fails to pay the assessment fee within one year following the date of the agreement, and the applicant deposits a security, in a form acceptable to the department, in the amount of the assessment fee to assure the payment thereof.

(b) The director may adopt rules establishing principals, conditions, and procedures for the granting of other variances. Such rules shall be adopted pursuant to chapter 91, Hawaii Revised statutes, and approved by the board.

(c) Requests for variances shall be made on forms available from the department and shall be addressed to the chairperson of the board. [Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-12 Assessment fee account. The department shall establish a single assessment fee account into which all assessment fees collected, and unappropriated source and storage assessments shall be deposited. The account may be used to fund

the development or construction of improvements listed in section 16-8-4 and for the repayment of bonds issued to finance the development or construction of improvements listed in section 16-8-4. [Eff] (Auth: HRS §54-33) (Imp: HRS §54-33)

§16-8-13 Severability. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions of applications of this chapter which can be given effect without the invalid provision or application. [Eff]
(Auth: HRS §54-33) (Imp: HRS §54-33)

NEW BUSINESS

Maui Land & Pineapple Water Agreement. The Department is requesting the Board's approval of the second amendment to the agreement for water purchase.

Presentation. The Director referred to his letter to the Board dated January 19, 1990. He stated that the first agreement was to purchase water from Maui Land & Pineapple, 1.5 mgd from Honolua ditch, at \$50 per million gallons. The Department has been negotiating over a year with Maui Pine to withdraw additional water from Honolua Ditch. They have tentatively agreed to an additional one million gallons, for a total of 2.5 mgd for Lahaina. The Director highlighted the conditions of the agreement:

1. That Maui Pine be exempt from source assessment fees, up to the equivalent of 1.0 mgd.
2. That the intakes be relocated from Alaeloa to Mahinahina.
3. That under drought conditions, the Department will institute conservation measures.

The term of the agreement is 30 years.

Responses to questions. The treatment plant in Lahaina is being designed to accommodate the additional 1.0 mgd. The big item is the exemption. It exempts Maui Pine not only in Lahaina, but on the entire island of Maui. However, the exemption applies only where water is adequate. On one hand, we need the water for the treatment plant in Lahaina, which we have designed for 2.5 mgd. It does not cost significantly more to build a 2.5 than a 1.5 mgd plant. On the other hand, it would mean less revenue for the County. We do not get money, but then, we do get water. The existing exemption provision exempts government projects and those who develop their own water. In this case, Maui Pine is willing to give us an additional 1.0 mgd in exchange for an exemption. The Director indicated that he believed it was a fair and equitable agreement.

Mr. Cabral asked whether Maui Pine's future development would be on this side of the island, or in Lahaina. The Director suggested there is a possibility that they may develop in Haliimaile, and if there is an assessment Upcountry in the future, they would be exempt under the terms of the agreement. Currently Upcountry does not

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92-14

PROPOSED REVISIONS TO ARTICLE 11, INITIATIVE,
REVISED CHARTER OF THE COUNTY OF MAUI (1983)

1. Section 11-3 (3) Should be replaced in its entirety to "Petitions must contain the printed name, signature, and address of the person signing. If legally possible, consideration should be given to requiring an individual's social security number for verification purposes. The voting precinct of an individual is unnecessary.

2. Section 11-4 (1) Should be revised as follows:

Section 11-4. Filing and Certification. [1. Within thirty (30) days after the filing with the clerk of the affidavit described in Section 11-2, all papers forming an initiative petition shall be assembled and filed with the county clerk as one instrument.

2.] 1. Within twenty (20) days after the petition is filed, the county clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the county clerk certifies that the petition is insufficient, the county clerk shall set forth in the certificate the particulars in which the petition is defective, and shall promptly send it to the petitioners' committee.

2. Individual signatures may be withdrawn within fifteen days after the filing of the petition by filing a written request with the county clerk.

4. Section 11-6 (1) and (2) should be revised as follows:

Section 11-6, Action on Petitions. 1. When an initiative petition has been finally determined sufficient, the council shall promptly consider the proposed ordinance or reconsider the ordinance or portion thereof sought to be reconsidered. If the county fails to enact a proposed ordinance without change in substance or fails to repeal the referred ordinance or portion thereof within sixty (60) days after the date the petition was finally determined sufficient, the county clerk shall submit the proposed or referred ordinance to the voters [of the county] at the next general election.

2. [The vote of the electorate on a proposed or referred ordinance shall be held not less than ninety (90) days and not more than one year from the date of the final county action thereon. The council shall if no regular election is to be held within such period, provide for a special election.] Copies of the proposed ordinance or referred ordinance shall be published in a newspaper of general circulation in the county at least forty-five days prior to submission to the voters and shall be made available at the polls.

5. Section 11-7 should be revised as follows:

Section 11-7. Results of Election. If a majority of the qualified electors [voting on a proposed ordinance vote in its favor] drawing ballots vote in favor of the proposed ordinance, it shall be considered enacted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

If a majority of the qualified electors [voting on a referred ordinance vote against it] drawing ballots vote against a referred ordinance, it shall be considered repealed upon certification of the election results.

Council Chair
Howard S. Kihune

Council Vice-Chair
Patrick S. Kawano

Council Members
Vince G. Bagoyo, Jr.
Goro Hokama
Alice L. Lee
Rick Medina
Wayne K. Nishiki
Joe S. Tanaka
Leinaala Teruya Drummond

*faxed to
chair & v. chair
7/26/91
lut*



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

July 23, 1991

92-15
Gwen Yoshimi-Ohashi
Director of Council Services

Honorable Linda Crockett Lingle
Mayor, County of Maui
Wailuku, Hawaii 96793

For transmittal to:

Mr. Donn Takahashi
Chairman, Salary Commission
Office of the Mayor
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Takahashi:

SUBJECT: RELATING TO THE SALARY COMMISSION'S REPORT (COW-2)

As requested at the June 26, 1991, meeting of the Committee of the Whole, please discuss the Committee's questions, concerns, and suggestions regarding the Salary Commission's Report with the Salary Commission. I have attached a copy of an excerpt of the Minutes of the meeting for the Salary Commission's information and review. I would appreciate a written report of your deliberations at your earliest possible convenience.

I would like to also confirm that the Councilmembers' automobile allowance appropriation will not be disbursed until the Salary Commission has made a determination on the matter.

Thank you for your attention to this matter. Should you have any questions or concerns, please feel free to contact me or my Committee staff, Diane or Yvette, at the Council Office at phone no. 243-7838.

Very truly yours,

Gwen Yoshimi-Ohashi

GORO HOKAMA, Chair
Committee of the Whole

Attachment

2A:COW2:daw

APPROVED FOR TRANSMITTAL

Linda Crockett Lingle 7/23/91
Mayor Date