

County of Maui Water  
Supply

BOARD OF WATER SUPPLY  
COUNTY OF MAUI  
REGULAR MEETING

Held at HGEA Conference Room, David K. Trask, Jr.  
Office Building, 2145 Kaohu Street, Wailuku, Maui,  
Hawaii, commencing at 9:00 a.m. on August 24, 2000.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354  
IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

BOARD MEMBERS:

Elmer Cravalho, Chairman  
Clark Hashimoto  
Peter Rice  
Jonathan Starr  
Orlando Tagorda  
Howard Nakamura

STAFF PRESENT:

David Craddick, Director  
Mike Quinn  
Herb Kogasaka  
Howard Fukushima, Corporation Counsel  
Fran Nago, Board Secretary

TRANSCRIPT OF PROCEEDINGS

REGULAR MEETING

AUGUST 24, 2000

CHAIRMAN CRAVALHO: Regular meeting of the Board of Water Supply  
will come to order. Today is the 24th of August, 2000.

Ms. Nago, will you check the role and see who's with us here  
this morning?

MS. NAGO: We have Elmer Cravalho, the Chair, Clark Hashimoto, Peter Rice, Jonathan Starr, Orlando Tagorda, Howard Nakamura, corporation counsel Howard Fukushima, David Craddick is the director, Mike Quinn, Herb Kogasaka, ex-officio member from the mayor's office is Brian Miskae, we have Herb Chang, Wendy Taomoto, Matilda Carvalho, Janelle Carvalho, Jackie Tavares, Joni Kawano, Attorney Douglas Sameshima, Jeff Ing, Lloyd Akiona, Jimmy Jones, Bob Yonahara, Mike Rocco. And I'm sorry, I didn't get your name. Henry Lindsey.

CHAIRMAN CRAVALHO: Quorum is present.

MS. NAGO: Yes.

CHAIRMAN CRAVALHO: Item three of the agenda, approval of the minutes. What's the pleasure of the board? Mr. Starr.

MR. STARR: I move that minutes be accepted and, if not amended within the next 30 days, approved automatically.

CHAIRMAN CRAVALHO: Is there a second?

MR. TAGORDA: Second.

CHAIRMAN CRAVALHO: You've heard the motion duly made and seconded that the minutes be accepted based on a review for the next 30 days. If there are no amendments proposed and/or agreed to, the minutes shall stand approved as presented. All in favor, say aye. Contrary? Carried.

Testimony from the public. Are there any members of the public who wish to make any testimony at this time? Hearing none, shall we then proceed to the next item of business, Item Number 5, Director's Reports. Director Report 00-33, Mr. Craddick, if there is no objection, the Chair would like to proceed with some referrals on these matters to committees. Director's Report 00-33, referred to the rules committee; 00-34, request approval for the purchase of land, refer to finance committee; report 00-35, resolution to purchase the Kaanapali water system, referred to finance and capital improvements, joint referral.

Along this line, the Chair would like to suggest that whenever referrals are made, that the committee should hold possession of these items no more than 30 days. If after 30 days there is no report and another 30 days has passed without any action on the

part of a committee, then all items referred to the committee shall automatically be brought back to the entire board so that there will be no iceboxing of any referrals to any committee at any time. No objection? So ordered.

Committee reports. From Committee of the Whole, the Chair recognizes from Mr. Tagorda.

MR. TAGORDA: Mr. Chairman, the Committee of the Whole met on August 9th, 2000 and discussed Communication 00-11 and Communication 00-23, that's on page 33, and the Committee recommended Communication 00-11 to be sent to the full board with a full and complete staff report identifying the problem in the alternative with a noted Executive Session listed on the agenda so the members can make a proper disposition. And I think in a separate packet we have staff report.

And on Communication 00-23, the committee's recommendation is to approve their request on a preliminary basis, with the details to be worked out by the board and the corporation counsel, Mr. Chair.

CHAIRMAN CRAVALHO: If there is no objection, shall we act on the committee's reports separately. With respect to Committee Report 00-11, requesting the matter be referred back to the entire committee, any people who wish to discuss the matter at this time? Attorney Sameshima, the Chair extends recognition to you.

MR. SAMEISHIMA: Thank you very much, Mr. Chairman, members of the board. I did provide this morning -- and I apologize for getting it to you this morning rather than prior to the hearing so that it could be perhaps digested earlier -- a letter addressed to the board and the members regarding our position following receipt of the report, the staff report, from the department.

Also present this morning are Mr. Henry Lindsey and Mr. Rocco who are partners in Piiholo and the subdividers in this matter.

To give the board members a summary of the position --

CHAIRMAN CRAVALHO: The Chair would like to interrupt you very briefly. The matter that is before the board at this time is the committee report which makes reference to the referral only back to the entire board without getting into a substantive discussion of the merits or the merits of the item itself. So if there is no objection, can we then proceed to adopt the committee report which places the matter before the board and

then you can proceed with your discussions if they are --

MR. SAMESHIMA: On that point we have no objection.

CHAIRMAN CRAVALHO: Okay. Then the pending motion then before this body is for the acceptance of that portion of the committee report placing the matter before the full board. Any discussion? All in favor, say aye. Contrary? Carried. It's all yours now.

MR. SAMESHIMA: Thank you, Mr. Chair. As I began, we have -- our position today is basically that this is really a technical legal question of interpreting the rules and that's why we came before the board with a petition for a declaratory order which is the best vehicle in our belief to handle that.

In reviewing the staff report -- and I might preface this by saying we indicate in our written submission that we're not conceding that a staff report was necessarily required in this particular case. Under the rules and procedures, the petition was to be taken as it was presented to the board. So without waiving any procedural arguments, the report itself, in looking at the report, does not cite any specific rule that makes it necessary to install the extension and the standpipe the department is requesting. The rule they cite is regarding the requirements for standpipes in agricultural areas. And then it goes on -- the report goes on to cite rule -- paragraph 4, section 24(B) of that rule and it says if in the interests of better fire protection it is determined that one or more of the required hydrants may serve the subdivision to better advantage if located outside the subdivision, they may be so located with the cost to be borne by the subdivider.

The problem with citing that rule in supporting their position that we should extend this particular subdivision's waterline is that we're not talking about fire hydrants. That whole rule before that last paragraph talks about standpipes and fire hydrants. There are different requirements for each. Then the rule the department seeks to use to substantiate its need for this extension only talks about fire hydrants. The subdivider is only required to install standpipes. We have the option to upgrade essentially to fire hydrants. The subdivider did not do so in this case. Therefore, this section of the rule does not apply, the department can't rely on it to say hey, you have to put in this extension outside of your subdivision and somehow it's going to, you know, result in better fire protection.

I guess the other way to look at it is perhaps the department should justify why the current system is not adequate under the current rules. The standpipes, as we indicate in our petition, all serve the 500-foot radius within the subdivision and therefore there is no need for this extension under the current rules and regulations.

Finally, the subdivider has relied on these rules and regulations in designing and installing its system. It's all there. We were ready for final subdivision approval when they said wait a minute, you didn't do this. Well, it's not needed, it's not required. And yet we've gone forward based on the rules as they existed on what was required by the department in what we were getting back from the department. And at the very end when we were ready to essentially get the subdivision up for sale, we're told oh, you have to add another \$50,000 in costs, pipe, and standpipes before you can have your final subdivision approval. And we just submit to the board that under the current rules and under the current facts of the case, this is not required and should not be a requirement of this particular subdivision.

I'm open to any questions from any of the board members.

CHAIRMAN CRAVALHO: Are there any questions from any members of the board? Mr. Craddick, do you have any response to the points that have been raised with respect to the requirements of the law?

MR. CRADDICK: I think they're mainly legal issues and I would probably defer to Howard there. I know they have reviewed it and I do have a drawing here showing the lots.

CHAIRMAN CRAVALHO: The question, Mr. Craddick, is with respect to the requirements of the law, do you have any indication that anything that the Attorney Sameshima has presented to us are different from the requirements of the law as opposed to a requirement or a desire of a committee or staff or director. Let's stick to the law. Any comment, Mr. Attorney?

MR. FUKUSHIMA: Our comment with respect to this matter, Mr. Chairman, if I may, we agree with the interpretation in the application of the rule that the department has placed upon this particular subdivision. We believe that the entire subdivision is not within a 500-foot radius, that because it's not within the 500-foot radius that the standpipes in the agricultural district must be 500 feet apart along, if I may --

CHAIRMAN CRAVALHO: The extreme boundary of the subdivision.

MR. FUKUSHIMA: Along the adjacent roadway -- that the standpipe should be located along the adjacent roadway.

CHAIRMAN CRAVALHO: To your knowledge, have any of the development plans and subdivision plans that have been implemented, to your knowledge have any of these been approved by the respective departments of government including Department of Water Supply, staff and/or director?

MR. FUKUSHIMA: I'm not sure I understand the question, Mr. Chair.

CHAIRMAN CRAVALHO: Simple. These guys proceeded to subdivide. In the process of proceeding to subdivide, were those subdivisions approved before then or after?

MR. FUKUSHIMA: I'm not sure. I'm not sure.

CHAIRMAN CRAVALHO: Question then. Was this particular requirement, did it come in as an add-on towards the end or was it a subdivision that had been previously approved and then we suddenly say well, there is something else we need.

MR. FUKUSHIMA: Again, I think staff would be in a better position to answer that question.

CHAIRMAN CRAVALHO: Well, in essence your office is not --

MR. FUKUSHIMA: As far as the timing of the request, I'm not sure and I believe staff would be in a better position to answer that particular question.

CHAIRMAN CRAVALHO: If there is no objection on the part of the members of the board and Mr. Sameshima, the Chair would like to proceed on these areas. The Chair would like to have the indulgence of the members of this board that the Chair be allowed to review this and raise pertinent questions of the department and report back to this body at the next meeting and we make a decision. Mr. Sameshima, would that be okay?

MR. SAMESHIMA: Your honor --

CHAIRMAN CRAVALHO: That's the way it's going to be regardless of what you say.

MR. SAMESHIMA: I know, so I just want to choose my words carefully. We would have no objection with the chairman's request. Thank you

very much.

CHAIRMAN CRAVALHO: Just as a matter of passing, I've said this before, I get very disturbed when requests are made, approvals given, verbal or otherwise, and suddenly something new comes into the picture. We've been through this before, if you recall. We've been through this. We've been through this with respect when a claim came in on extra work. Remember that? And where an indication had been given by staff or the director or somebody to proceed and we proceeded in good faith.

Now, I think all of us, all of us, if we've given our word and made a commitment, it's our job to live up to this commitment if it's legally correct and not go and look for an excuse to impose another condition and another requirement. And I think the history is replete with that kind of an operation and we need to correct it, blaming nobody. But if it does exist, we're going to clean 'em up and clean 'em up quick. Because I know some cases that are 8 to 10 years old where things have not been cleaned up properly. In some 25 and 30 years, we're going to have them coming to this board today. We're going to clean 'em.

So if no objection, shall we then -- Mr. Sameshima, okay?

MR. SAMESHIMA: We appreciate your concern. Thank you.

CHAIRMAN CRAVALHO: I know you grayed in the process. I went bald in the process. But let's go ahead.

Next item, committee report from Mr. Tagorda.

MR. TAGORDA: Unless Ms. Kawano from NJM would like to say something.

MS. KAWANO: Good morning, Mr. Chair, members of the board. Actually, I'm just here to address any questions or concerns regarding our initial proposal that was placed.

CHAIRMAN CRAVALHO: Any questions? May the record reflect there is no objection to the acceptance and adoption of that portion of the committee report and progress will be made by the department as requested and enumerated in the committee report. If no objection, may the record reflect it has the full approval of the board. So ordered. Mr. Craddick.

MR. CRADDICK: I just want to say something for the board's information. A person called -- the name is Malte Simmer, he apparently lives right behind there, had some concerns about the emissions or something like that. And I think -- well, he indicated to me he will try and fight this as it goes along, but I told him ours is a very preliminary step in the approval process, so.

CHAIRMAN CRAVALHO: So noted. Shall we continue to the next one. Finance committee. Mr. Rice?

MR. RICE: Mr. Chairman, our report has been included in the packet of information. Let me take the items one at a time, the first item being the request from Nishida at Pukalani Country Club and the reduction of the water system development fee. The committee met July 15th and subsequently the committee met again on August 10th. The issue of the fee was discussed with staff and members of the Pukalani Country Club and it appears that while a request was made for a permanent meter sometime ago, for reasons that we couldn't determine nothing was done on that request and rules subsequently changed where temporary water meter fees were being charged which are higher than our normal fees and which prompted Pukalani to come back again and inquire. And the committee is recommending that because of the lack of facts in this situation, that we agree -- we recommend to the board that the board approve a development fee that's equal to the 1988 fee which is \$16,250 versus the fee that they would have paid today which is approximately \$19,000. I think it's a fair compromise in light of the fact that the original application was made so long ago and there is not sufficient data to determine if someone is at fault. So that's our motion to recommend approval of that fee.

CHAIRMAN CRAVALHO: Is there a second?

MR. NAKAMURA: I second.

CHAIRMAN CRAVALHO: You've heard the motion duly made and seconded for the recommendation of the connection fee of \$16,250. Any discussion? If not, if you're ready for the question, all in favor say aye. Contrary? Carried.

MR. RICE: The next item is additional funding for waterline replacement project and this project was placed on the agenda before we approved the budget. Subsequently, it was included



in our budget capital improvement program for the current fiscal year, so just noting that for the members of the board that it's no longer a pertinent item, no action is needed.

CHAIRMAN CRAVALHO: May the record reflect the item is filed inasmuch as the provisions have been made to this project previously. Proceed, please.

MR. RICE: Next item was communication from Council Chair Pat Kawano on the Iliahi-Nauwe Waterline project. Mr. Chairman, it was clear from our discussions at our meetings that the project did not get completed properly. The contractor is out of business. There is a bond and proceeding to make a claim against that bond. The committee recommends that the department immediately solicit secure bids to correct that problem and work expeditiously to complete that repair work while simultaneously corp counsel is proceeding against the contractor on whatever remedies we might have under the bond.

CHAIRMAN CRAVALHO: You've heard the explanation. The Chair would like to enter into the record -- Mr. Starr, go ahead.

MR. STARR: I was going to second the motion and move as fast as we possibly can.

CHAIRMAN CRAVALHO: The Chair's suggestion was that the bidding progress be followed and that before the bid is awarded, that this board receives that -- the results of those bids so that we be sure that we have met all the legal requirements, that we're not putting out funds without being assured of collections. Not to defer, not to delay, but to make sure that we're going to get it done correctly right away. Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, if I could offer a suggestion. I think one of the problems with this project is that it involved engineering issues, legal issues, financial issues, and my observation is that nobody seems to be taking real ownership of the project that resulted and I would like to suggest that perhaps the deputy director be requested to be responsible for coordination and resolution and report back to the board on a monthly basis as to the progress that's made in resolving this.

CHAIRMAN CRAVALHO: No objection? So ordered. That's not just a request; it is --

MR. NAKAMURA: A direction.

CHAIRMAN CRAVALHO: Direction. But report back here directly to this body without going through channels and getting lost in the process.

MR. STARR: Mr. Chair, just a request that Council Chair Kawano be notified of what action we're taking.

CHAIRMAN CRAVALHO: So noted. Shall we proceed to the next item?

MR. RICE: Yes. The next three items that were assigned to finance committee were relating to requests for agricultural rates for water customers. And I just want to bring to the attention of the board the hand-out that I attached. When someone goes to the planning department for verification of their zoning status, they get this form and in all cases the applicants for agricultural rates did not have agricultural zoning; they're rural. However, the form says, "Our agricultural use is permitted on this property." In all cases, they were checked "yes," thus the confusion for all the different applicants. And the committee would recommend that this be referred to the rules committee.

CHAIRMAN CRAVALHO: No objection? So ordered.

MR. RICE: Last item, Mr. Chairman, is a request from Thomas Schwab for waiver of Water System Development fee. The committee again reviewed the request and the appropriate documentation and it was determined that the property in question was purchased by Mr. Schwab without a water meter and we recommend denial of the waiver of the Water System Development fee.

CHAIRMAN CRAVALHO: You've heard the explanation. If there is no objection, may the record reflect it is the decision of this board to accept the committee report and to deny the application as enumerated in that communication. Any discussion? Hearing none, so ordered.

Mr. Nakamura, the Chair recognizes you. Strategic planning committee.

MR. NAKAMURA: On that item, Mr. Chairman, I would like to move that the board accept the draft strategic plan and

authorize the chairman and the board secretary to set an appropriate public hearing.

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: You've heard the motion duly made and seconded that we approve the request and they shall move expeditiously to set up the necessary public hearing. Discussion? All in favor, say aye. Contrary? Carried.

Communications. Communication from Jackie Tavares on behalf of Matilda Carvalho for subdivision approval. If there is -- yes, Ms. Tavares.

MS. TAVARES: Can I come before the board?

CHAIRMAN CRAVALHO: Absolutely.

MS. TAVARES: Thank you. I would like to introduce Matilda Cravalho. Today is her birthday, she's 77 years old. And the property we're talking about belongs to her. That's her daughter Janelle.

Should I show the map or would the board like to see the map that we're discussing, the property? There is three lots.

CHAIRMAN CRAVALHO: Mr. Craddick?

MR. CRADDICK: This can be done under a 216 referral.

CHAIRMAN CRAVALHO: Mr. Craddick, the Chair is well aware and the Chair would not appreciate any departure from the normal practices which would be for referrals. The Chair is well aware of what can be done. And I think the Chair has indicated a lot of sympathy all the way through for this kind of a thing, without getting away from accepted procedures and accepted requirements. The Chair is going to make referral of this so that we come back to our regular meeting at the next meeting and act on it. Now, I don't see any particular problem, but the Chair appreciates the concern of the director, but sometimes silence is golden. Proceed.

MS. TAVARES: Thank you. Good morning, Mr. Cravalho and members of the board. Matilda Carvalho is seeking to

subdivide her property on Lilikoi Road in Makawao into three lots. She would like to put all three lots into her trust and upon her death, pass the lots in trust to her daughter and five grandchildren.

I want you to understand that Mrs. Carvalho is not requesting any meters. Okay. I would like to say that again: She is not requesting any water meters. All she wants -- she has owned this property for some 50 -- more than 50 years with her deceased husband and herself and because today she's 77, she would like to put it in her trust so that she can pass it on to her family at her passing. And that's why we're here. Your consideration and approval of this matter would be greatly appreciated.

CHAIRMAN CRAVALHO: The Chair would refer this to staff to report back to this board at the next meeting for action. If no objection, so ordered.

MS. TAVARES: Thank you for your time.

MR. HASHIMOTO: Mr. Chair, can I just go back for the benefit of Mr. Jones and Mr. Pahia who's here, what it means when you refer it to rules committee so they know what --

CHAIRMAN CRAVALHO: When the matter is referred to rules committee, this has to deal with water meters.

MR. HASHIMOTO: Ag rates.

CHAIRMAN CRAVALHO: Oh, ag rates. It means that rules committee is going to handle it. And we'll be scheduling a meeting in the next week or 10 days to get on that. We've acted previously on similar requests. I understand you folks met on this previously and you expressed some concern. So that's where we want to -- finance committee.

MR. NAKAMURA: The language of the rules.

CHAIRMAN CRAVALHO: The language. Absolutely. We I think gave it a little glimmer of life.

MR. HASHIMOTO: You guys have any questions?

MR. NAKAMURA: Mr. Chairman, on 00-36 from Jackie Tavares, I

wonder if we could also ask the attorney to review the rule. In talking among ourselves here, Mr. Craddick made mention of the fact that it could be covered under the family subdivision. I understand there is an issue as to when the property passes on, whether it is -- whether you can do it at the time of passing through the estate or it needs to be done immediately after subdivision and that seems to be part of the issue and I'm wondering if the attorney would review the language.

CHAIRMAN CRAVALHO: No objection. No objection. The Chair has a concern about -- with respect whether there be any kind of improvements need to be waived to effectuate this, so we take care of that all at one time, corp counsel's office. I have no problem.

Shall we proceed to the next item, communication from Jack Hupp and Norma Hupp, same thing, referral, refer to the rules committee.

Communication 00-37A, same thing. 00-38, referral, same thing.

Isaac Hall, 00-39, file.

Communication from Attorney Victor Sher. The director has informed me that this is supposed to have been the quasi-confidential matter, so we refer it back to the director. If you wish us to handle it, Mr. Craddick, you take the necessary action of getting a transmittal letter and request that we go into Executive Session.

MR. STARR: Mr. Chair, I think this should go to finance along with the Kaanapali matter because that's what it's related to.

CHAIRMAN CRAVALHO: Technically we don't have this matter before us, so I'm asking Mr. Craddick to -- then at that time we'll make the proper referral. I have the same concerns that you do, I think, with possible ramifications on other decisions and court actions that have been taken and which would probably have financial potentials and implications. Okay.

From Mr. Yonahara. If there is no objection, shall we refer this to rules committee as well. This is a major problem. Not just this area, but I want rules and staff, that Mr. Craddick in particular would need to review the entire lower line situation because this communication makes reference to a portion of the lower line that was installed 25 plus-minus years ago. And during

that 25-year period, no easement has been finalized and yet this is true with respect to one element, it may be true for many others. And also refer this back to the finance committee because there is a matter there deals with a possible financial consideration and/or request.

Communication from Mr. Sheehan. The Chair would like to refer this to Mr. Starr's committee on operations and review to report back.

The Chair has another concern which should be brought to the attention of the board. Within the past number of days, a number of people who have been operating under temporary permits for periods exceeding five, seven, eight years or there about, still on a temporary basis. I don't think that is appropriate. In many instances or in some instances, some of these permits were given in order to service public agencies or meet public responsibilities such as requests from civil defense for accessibility during any time of trauma or any time of an emergency, such as making water and transporting water to the top of Haleakala, et cetera, et cetera.

The Chair would like to suggest that we review these matters very carefully and if these public services are being met, maybe those meters should be made permanent as a matter of public service to meeting these public requirements and clear this up.

Maybe inadvertently staff or others have been extremely zealous in informing some of these people that it has been the request of the Chair that their meters be removed. It never happened. That request never came from the Chair. But from the knowledge of all parties, these meters seem to be in existence.

The Chair would like to request Mr. Craddick if possible to prepare a list not only of the two people or two parties we are familiar with, but any others that may be operating under emergency basis, and for what period, and for what public services are being provided as a result of this. I think this is no different than what you asked telephone companies to put these telephones way stations along the road to call people in terms of emergency and what have you. Now, I know in some cases -- in one case in particular there has been a request from Civil Defense for the presence of a meter that they can get water out of in times of emergency and I think we need to look at this.

Anything else to come before this board?

MR. STARR: Mr. Chair?

CHAIRMAN CRAVALHO: Mr. Starr.

MR. STARR: Just to be clear, I assume we're going to get a list of all of the temporary meters that are in existence?

CHAIRMAN CRAVALHO: That's what the Chair has requested. And I'm sure that Mr. Craddick will be cooperative and get that for us.

The Chair would also like to suggest, inasmuch as the board meets once a month, usually the last week of the month, that the committees proceed to have their meetings in the first week and second week and third week so that the workload for staff is evenly spaced out and we can get reports in time for board members to look through in that last week. And if we get everything done in time, then we can circulate the agenda in time with all the appropriate material, I think we're going to be way, way, way ahead. So the Chair would like to request the chairpeople to look over their agendas and schedule their meetings. And the rules committee will yield to all other committees, we'll hold our meeting last so that you can program your own meetings if you wish to and we'll have ours during the third week. No objection?

One more item. Reconvene. Procedure for capital improvements have been presented to all of you from Mr. Nakamura's committee, capital improvements.

MR. NAKAMURA: Mr. Chairman, as you know the budget did take a lump sum approach to pipeline replacement and contingency and we believe there is a need to establish the process so that the board is fully involved and aware of how the projects are proceeding. And I would recommend that the board approve this procedure. I don't know if a motion is necessary, but --

CHAIRMAN CRAVALHO: May the record reflect if there is no objection, this is the procedure that shall be followed until such time as the board raises any objections. Mr. Craddick?

MR. CRADDICK: I brought one item up to Howard there about the

bond projects that is not covered in here. And I think those projects, they have to go forward no matter what, right, unless there is council action.

CHAIRMAN CRAVALHO: Wait, wait, wait. I don't know. When you make reference to bond projects, are you talking about bond dent projects or are you talking about projects financed by bond issues? Two different things.

MR. CRADDICK: Prior projects financed by bond issues. The 1988 Geo bond.

CHAIRMAN CRAVALHO: The Chair recognizes the distinction that is being attempted to establish. The fact does remain that we're making reference to public funds. And when a procedure is established that does not provide exceptions, those procedures need to be followed. The projects that have been in fact and are under implementation are one thing. For those that may have been authorized but are not being implemented, I think we still follow. Because the appropriation of the expenditure pattern, Mr. Craddick, does extend over a period of years in many cases and with specific reference to those projects which are bonded funded. The expenditure period extends over a period of years. And if during the tenure of a board that has gone into an extension -- the extended period beyond a fiscal year, I don't believe the board is precluded from taking action if it finds anything amiss or anything improper.

By the same token, if that authority is vested and this authority is responsibility is vested in the board, then it is only logical in the opinion of the Chair that the conditions and requests and suggestions made by the committee are entirely appropriate and any departure from those conditions need to be brought back to the board for its attention. So in case anything does not go as had hoped, as in the case of [inaudible], the board has been informed in adequate time as we go along, not come across something after the fact. So I -- unless there is something overwhelmingly to the contrary, the proposals coming out of the committee, in the opinion of the Chair, are entirely appropriate and needs to be followed and this will keep the board members constantly informed. If we wish to avoid some of the problems in the past that have come to us, I think this is entirely



appropriate.

The Chair says this with the greatest amount of courtesy and respect to the director, but the Chair does point out to the director again, as the Chair has done in the past, the board is made up of nine members and you are not a member of the board. So the policymaking decision is restricted to the nine members and any suggestions and/or comments you wish to make, the Chair would really appreciate it if initially if you make them to the various committees because that's the whole purpose of the committee setup. This is being said with great courtesy, really, and I think this is the best way for us to go. I think it makes sense. Okay. Meeting -- one more time. Anything for you.

MR. STARR: Thank you, sir. A couple of last items. We did get the USGS data sheet and I'm very happy to see that the pumpage levels of the Iao are being kept in reasonable numbers and much lower than last year, but I would like to make sure that the board members are aware that as it says despite lower pumpage, water levels in both pumping wells and monitor wells continue to trend downward. So we definitely must pursue other -- keep pursuing other avenues which we've made great progress at.

I also have a comment regarding update on upcountry water situation. I would like to request the Chair that at a meeting soon that we have an agenda item about the new wells upcountry and proceeding on that as expeditiously as possible. I know that that's, you know, in our plan, but I would like to see that move ahead.

My last comment is regarding public meetings. There was a very spirited and very heartfelt meeting about the stream restoration in Keanae which I had the fortune to attend along with board member Nobriga. And it was a very, very emotional meeting and certainly everyone there felt that stream flow restoration should take place. And there was also almost complete unanimity in the feeling that it was going to be very difficult or probably impossible to be decide which stream to pick out and try to restore. The feeling was that the community there should try to stick together and to get all of the streams restored to whatever extent is possible. But there was video taken of that meeting by -- I saw someone there with a camera of Akaku

and it might interest the board members to see that because the testimony was -- some of it was very -- very much to the point and very emotional, going back over many, many generations of people's experience, it was quite an experience.

CHAIRMAN CRAVALHO: The Chair would like to have all of the members of the board realize, with satisfaction, the activities of this board as it has dealt in a whole variety of areas and not the least of which is the restoration of the stream flows, things of that nature, the East Maui area. The Chair notes that perhaps the board was a little bit ahead of its time in focussing attention not only in the recognition of an existing problem of a very long -- over a long period of time, but that this board is taking action to begin a restoration program. And the Chair would like to point out the potential impact of the recent Supreme Court decision as it has dealt with water on the island of Oahu where in essence perhaps what the Supreme Court has said, and I don't know really but I think it has said that inadequate attention was given to stream flows from where the water had its origin in. And so this board has been ahead of its time with respect in recognizing not only this need, but recognizing a commitment to initiate action to start on this particular problem. And it has very, very great significance and I think it has significance not only with respect to water -- stream restoration, but to some of the other potential needs in this area. We solve that, we're going to be able to move in a lot of other directions in a very positive manner. And we need to focus attention, I believe, on a very orderly manner for growth and development and what have you, and to make sure that we provide for these opportunities in consonance with the restoration problems, in consonance with the needs of Keanae and those other areas, and in consonance with what we want to see in the Ulupalakua, and all of the way over to Kahiki-nui. Do not leave that out. And as we observe this potential methodology, that we make a sharp distinction, if we can, between the legitimate needs of people and agriculture pursuits in those areas and development water that may deplete water sources in the East Maui area. To wit, when we look at Ulupalakua, let's not go have pipe dreams of putting a 24-inch line

in there because that's a subdivision line. Same thing is true with respect to a 12-inch line. And I think it is also true to a significant degree of even an 8-inch line. And we're going to hit a stone wall on that. Now I think we need to focus our attention and I think we need to focus, Mr. Starr, if I may, our attention on that particular report you made reference to about the aquifer and the reduced dumping that we do from here, which is a plus. But it is also accompanied by a statement to the effect that the supply, the basic supply is not holding constant or as high as we would like to have it. It also makes reference to the increase in the salinity content and to me that raises a number of questions or a number of potentials. If for one reason or another, were it unable to move as rapidly as we would like to in the East Maui water, I think we need to look at the possibility of desalinization to some degree, or immediate if necessary, so that we do not retard the growth pattern that can be possible. And so if we take that approach and we look at the Ulupalakua area and we look at what's happening in the Makena area and we look at the whole hillside and where subdivisions are going for a house and lot now, condominium subdivision for 4 to 5 million, those are not everyday working peoples. Those are people who might be in the position to afford a separate distinct type of a water system if they pay for desalination or use water from us and desalinize, whatever. And we can make the whole hillside bloom and be green. And I think it makes a lot of sense. And I think it's something that we can look at because if we don't do that, Brother Takitani, down here we'll go dry. That's what I'm afraid of. And economy of this island that we are so proud of can have some serious setbacks if we aren't careful. I think we have.

So the board -- the action of this board with respect to the memorandum of agreement that was signed a number of months ago, in my judgment it's going to prove to be ever more important and ever more significant for this community, particularly in this area here. And it brings together a whole variety of interests and forces and people. I think it's all plus kind.

(WHEREUPON, the meeting was concluded.)

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