

County of Maui Water  
Supply

BOARD OF WATER SUPPLY  
COUNTY OF MAUI  
REGULAR MEETING

Taken at the David Trask Building, Conference Room 207,  
Wailuku, Maui, Hawaii, commencing at 9:00 a.m. on  
September 28, 2000 pursuant to Notice.

REPORTED BY: GLORIA T. TAVARES, RPR/CSR #262

ATTENDANCE - Board of Water Supply Meeting, September 28, 2000

Members present:

Elmer Cravalho, Chair

Mike Nobriga

Jonathan Starr

Orlando Tagorda

Adolf Helm

Howard Nakamura

Bob Takitani

Staff present:

David Craddick, Director

Herb Chang, Engineering

Jacky Takakura

Mike Quinn

Howard Fukushima, Corporation Counsel

Fran Nago, Board Secretary

Shirley Falcon, Clerk Typist

IWADO COURT REPORTERS, INC.

CHAIRMAN CRAVALHO: The regular meeting of the Board  
of Water Supply of the County of Maui comes to order.  
Ms. Nago will check the roll.

MS. NAGO: We have Chair Elmer Cravalho, board member  
Mike Nobriga, board member Peter Rice, board member Jonathan  
Starr, Orlando Tagorda, Adolf Helm, and Howard Nakamura. We

also have director David Craddick, deputy corporation counsel Howard Fukushima, Mike Quinn, Jacky Takakura, Tom Rack, Paul Seitz, Natalie Powell. We have Doya Nardin, Mark and Denyse Collins, we have David Niehaus, Mathilda Cravalho -- Carvalho, Jackie Tavares, Marty Oostema, Marina Freitas, Jeff Ing. We have Glen Jackson and Carolyn Moore. We also have Peter Stolle, Hugh Starr -- and I'm sorry, your name is --

MR. LINDSEY: Henry Lindsey.

MS. NAGO: We have Thomas Kafsack and Inga Kafsack.

CHAIRMAN CRAVALHO: Thank you. The minutes of the meeting of August 24th, the year 2000. What's the pleasure of the Board?

Mr. Nobriga?

MR. NOBRIGA: Move that we receive the minutes of the meeting and have it reviewed for 30 days, at which time there's no corrections, additions, deletions, it shall be filed as provided.

CHAIRMAN CRAVALHO: Is there a second?

MR. RICE: Second.

CHAIRMAN CRAVALHO: So moved by Mr. Nobriga and seconded by Mr. Rice that the minutes be received for a period of 30 days, upon which time the members have the opportunity, as well as the public, to review for additions or corrections. Following the 30-day period, if there are no additions and/or corrections, the minutes shall be filed as though proved correct.

Further motion. All in favor say aye.

(A chorus of ayes.)

Contrary. Carried.

Shall we then proceed for testimony from the public? Any members of the public wish to make testimony at this time?

This will not preclude members of the public being able to make comments on any subject matter that comes up subsequently. If you testify, you have a position to make at this time, you do not waive your right to discuss other matters

at any subsequent time during that meeting.  
Is that clear? Okay, fine. Shall we then proceed.  
Directors report 00-36. A request for additional  
funding for the Paukukalo waterline replacement.  
Mr. Craddick, do you wish to advise us of the latest  
developments?

MR. CRADDICK: The Burial Commission is meeting.  
They would like to come over and address the Board in a half an  
hour. If we could defer this item until then.

CHAIRMAN CRAVALHO: No objection. Deferred. So ordered.  
Directors report 00-37. Request approval for the  
partial release of agreement for deferral of subdivision water  
system improvements for for Kulamanu.  
Discussions, Mr. Craddick?

MR. CRADDICK: On this matter here, it's a request  
from the subdivider to do this. We have no objection with the  
request. But if the Board wants to refer it to committee,  
that's all right.

CHAIRMAN CRAVALHO: The Chair would like to refer it  
to the committee in operations.  
Mr. Starr?

MR. STARR: My pleasure.

CHAIRMAN CRAVALHO: No objection. So ordered.  
Committee reports from the committees on finance and  
capital improvements.  
Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, the committee report has  
been circulated and moved for the adoption of the committee  
report and the authorization of the listed pipeline replacement  
and contingency fund.

CHAIRMAN CRAVALHO: Is there a second?

MR. RICE: Second.

CHAIRMAN CRAVALHO: You've heard the motion duly made

and seconded for the adoption of the committee report thereby adopted by all the recommendations as enumerated in the committee report that has been circulated to the members of the Board.

Any discussion? If not, are you ready for the question? All those in favor say aye.

(A chorus of ayes.)

Contrary. Carried.

From the committee on oversight. The Chair recognizes Mr. Nobriga.

MR. NOBRIGA: Mr. Chairman, the committee report of oversight has been circulated, and a motion would be in order for its full acceptance.

CHAIRMAN CRAVALHO: Is there a second to the motion? Hearing none, the motion made has not been approved or passed. It is the recommendation and suggestion of the Chair that all matters enumerated there on the said committee report be referred back to the entire Board, and we shall handle it at the very next meeting.

No objection. So ordered.

From the Rules Committee. The Chair has a dual function as chair and chairman of the Rules Committee. The report has been circulated, made available to all members. Very clear. Very simple. It is the recommendation of the Chair, there's no objection by unanimous consent, that the report of the Rules Committee hereby adopted them and will follow through upon it.

No objection. So ordered.

From the Operation Review and Evaluation Committee.

Mr. Starr.

MR. STARR: Yes, sir, the Operation Review and Evaluation committee met on September 5th for public testimony regarding public record of Board of Water Supply committee meetings.

It was noted that one Board of Water Supply member has previously requested that verbatim minutes containing everything said at the meetings be kept and made available for all board and committee meetings.

It's noted that HRS 92.9 (a) states: Any other information that any member of the Board requests be included

or reflected in the minutes.

The minutes shall be public records and shall be available within 30 days after the meeting.

Currently the Board is in violation of 92-9(b) in that minutes for many committee meetings have not been made available within 30 days due to lack of staffing. It is believed that the most effective way of getting and keeping minutes up-to-date is to use verbatim minutes. This will allow the Board to be in compliance with the Sunshine Law and meet the desires of the public and Board members.

As such, the recommendation of the Committee is summed up in the following motion, which was passed by the Committee.

It is moved that verbatim minutes for both committee and board meetings be implemented in compliance with state law and that various mechanisms be explored as to the best way to get past and future minutes completed in a timely and cost effective manner.

CHAIRMAN CRAVALHO: If there are no disagreements, may the record reflect the acceptance of the committee report. The Board shall review said matter at the next meeting together with any and all other rules and regulations and statutory provisions, including the rules of procedure and the reference to the Roberts Rules of Order and as it may relate to this particular recommendation.

If there are no objections, so ordered.

Shall we proceed therefore to the next item.

Old business. Discussion of possible action regarding Peter Stolle versus David Craddick.

There's a communication from the office of corporation counsel. It is the understanding of the Chair that the communication from the corporation counsel makes two particular points: A, that the request that's been originally submitted some time ago with respect to the hiring of separate private counsel for Mr. Craddick is hereby withdrawn by the office of corporation counsel. And he is submitting to us a request that has been received by the office of corporation counsel from the attorney of Mr. Stolle for a potential settlement.

May the communication be received and arrangements made for review?

MR. RICE: So moved.

MR. STARR: Second.

CHAIRMAN CRAVALHO: You've heard the motion duly made by Mr. Rice, seconded by Mr. Starr that the Chair's recommendation be followed.

All those in favor say aye.

(A chorus of ayes.)

Contrary. Carried.

A request from Carolyn J. Moore of Berean Mission for a waiver of the subdivision requirements.

Is there anyone here?

Yes, ma'am.

MS. MOORE: Should I speak over here?

CHAIRMAN CRAVALHO: Anywhere you wish to.

MS. MOORE: This is a somewhat simple but complicated request. Berean Mission is dissolving, and they are turning their assets and everything over to another mission in Philadelphia named UFM International. That mission has no desire to own property in Hawaii and would like to give the property to the ministries that are here, the Haiku Bible Church and the houses to Doris Todd School for housing for their teachers.

There's no intention of building or making any property changes at this time. It would just simply be a title transfer. So the water need would really not change for the people living there or for the church. It would remain the same.

I'm trying to make it as simple as I can, but I wonder if you have any questions about it. We realize that the water is not enough, but we also realize that we're in a drought condition with the moratorium. And I believe that the water department has put us on a priority list for upgrading water meters. But we're really not planning any building or construction or any changes at this time.

CHAIRMAN CRAVALHO: Any other discussion? It is the understanding of the Chair that a request is for a waiver --

MS. MOORE: Exactly.

CHAIRMAN CRAVALHO: -- to allow the subdivision. It is also the understanding of the Chair that at the present time, this five-eighth meter does serve the property including five operations or five units there. There are to be no changes.

MS. MOORE: No changes.

CHAIRMAN CRAVALHO: The only request is for the formality of a subdivision.

MS. MOORE: Right.

CHAIRMAN CRAVALHO: It is also the understanding of the Chair that the department makes reference to the water shortage in the area, and therefore it would not approve the request; but in fact, there would be absolutely no change except just dividing of the property.

MS. MOORE: Exactly.

CHAIRMAN CRAVALHO: Mr. Starr.

MR. STARR: I'm curious why the property is being divided.

CHAIRMAN CRAVALHO: Explain it again.

MS. MOORE: The mission does not want to own property in Hawaii. It wants to give the property -- to just transfer the title to the Haiku Bible Church and to Doris Todd School. And they are both separate entities. And in order to do that, they have to subdivide the property and give the section number 1, I think it's plot number 1, to Haiku Bible Church and plot number 2 to Doris Todd School because we're using it for housing for our teachers.

MR. STARR: Okay.

CHAIRMAN CRAVALHO: Mr. Nobriga.

MR. NOBRIGA: I would support the request, and I

would move to approve the waiver of subdivision.

CHAIRMAN CRAVALHO: Is there a second?

MR. TAKITANI: Second.

CHAIRMAN CRAVALHO: Hearing the motion duly made and seconded -- welcome, Mr. Takitani. May the record reflect the presence of Director Takitani.

The motion before this body is to approve the waiver. Any discussion? Hearing none. Ready for the vote. Everyone in favor say aye.

(A chorus of ayes.)

Contrary. Carried.

Thank you very much for your presence. The Chair suggests you run out of here quick.

A request from Mark and Denyse Collins for a water meter, Olinda house lots.

Is there anyone here to testify?

MS. COLLINS: I am.

CHAIRMAN CRAVALHO: Fine. Will you identify yourself, please?

MS. COLLINS: I'm Denyse Collins and this is my husband Mark.

CHAIRMAN CRAVALHO: All yours.

MS. COLLINS: My name is Denyse Collins. I'm the nurse coordinator for Aloha House, which is a drug and alcohol rehab here on Maui. My husband is Mark Collins. He is the coordinator for the West Maui Watershed Mountain Partnership. We are both hard-working, tax-paying citizens. We just yesterday took our building plans to the County for a building permit, and it would represent a hardship for us if we were not to be granted a water meter. So I humbly ask you for your compassion in your consideration in granting us a water meter.

CHAIRMAN CRAVALHO: Are there any questions?

Mr. Starr.

MR. STARR: What is granting a water meter? Does that mean that they want us to give them one for free?

MS. COLLINS: No.

CHAIRMAN CRAVALHO: Installation.

MR. COLLINS: There's a bit more that I would like to present to give some background.

This is a continuation of an appeal that was initiated in February, and I just want to show you the property. This was originally owned by Sheila Myhre. And the property is here in the green. This is Olinda house lots. This is a subdivision that was established in 1915. The gray areas are lots within the subdivision that are state owned. It's in the forest reserve. The red are the lots that the owners have water meters to those lots. The lots that is ours is the green, so you can see it's surrounded by owners who have water meters.

Once again, this is a subdivision established in 1915. So there's some main points to this appeal to the Board that we are continuing. And that is that this lot number 7, our lot, should be considered an existing lot. The latest water meter approved in that subdivision was in 1989.

There was another point made within the original request that was of substantial reliance. The owner had an expectation that a water meter would be issued to the lot, and this is based on the fact that up through the years since 1915 water meters have been issued to owners within the subdivision.

The other reason why I wanted to have this put up again is that these lots here are receiving water off of Olinda Road with an easement. And this represents a point of adequacy. So the lots on either side of our lot -- this is where they are getting their water. There's a substandard two-inch line down here that would not service well.

There's another very important aspect of this. This ties into why -- ties into the standards of appeal that are written. And that's 16-2-79. The timing of the application for a water meter apparently fell 27 days after an unannounced change in procedure by the water department, which apparently occurred on October 4th, but essentially halted the approval of water meters to properties that were subdivided or created

without the approval from the department.

The issue here is that a substantial change in the issuance of water meters should have been announced by the department to property owners, and it was not.

And so regarding the standards of appeal, this is if you are to give us a water meter based upon essentially a case-by-case basis, it needs to fit within the standards of appeal.

And what we are saying is that the department, because on October 4th, stopped granting water meters to properties that were created or subdivided without the approval of the department. To do this without notifying the public could be considered capricious in its application.

I don't mean that in a way to be offensive. It's just that it fits within the language of the standards of the appeal. And that also that, just to say that this is not an existing lot, even though that the surrounding lot owners have received water meters, that is once again fitting within the standards of appeal that can be considered arbitrary in its application. To say, well, this one lot is not an existing lot when it's in a subdivision that is surrounded by owners that have water meters.

So we ask that the Board approve our request for a water meter for lot number 7 based on the merits of the appeal that were originally initiated by Mrs. Myhre and continued by us. Furthermore, we ask the Board to approve the meter from the point of adequacy which is on Olinda Road. Thank you.

CHAIRMAN CRAVALHO: Any further discussions or questions?

Mr. Rice.

MR. RICE: I thought you said in the beginning of your presentation that the last meter that was issued in that subdivision was 1989.

MR. COLLINS: That's correct.

CHAIRMAN CRAVALHO: Any further questions or discussions?

Mr. Starr.

MR. STARR: Are you on the priority list?

MR. COLLINS: Yes, we are.

MR. STARR: What number on the list?

MR. COLLINS: I don't know the number. The Department was kind enough to put us on the list based on when the original request by Mrs. Myhre was initiated. That was, I believe, in October of '99.

MR. STARR: While I certainly would like to see you be able to get a meter, I have a problem with anyone jumping the cue and getting ahead of other people who have been waiting as well. I hope we'll be able to get water meters issued in the not too distant future. I for one feel that we need to look at people who have been waiting even longer before we let anyone in.

I believe we have a policy going that we're not issuing any meters until the first of the year, in any event.

CHAIRMAN CRAVALHO: Any further discussion? Sir?

MR. COLLINS: Just for clarification. We are requesting this not in the concept of trying to bump ahead, but in the belief that if this can be considered an existing lot, it's my understanding then that a water meter can be issued. It's not a matter of being on the list.

CHAIRMAN CRAVALHO: The opinion of the Chair, there are two separate items or two separate elements to this question. The question with respect to the existing of a lot, if we assume for the sake of discussion that there is a lot, legal lot, that would be entitled to a meter under normal and ordinary circumstances. And if that particular fact or that particular thought is adopted, it does not however automatically eliminate or supercede the moratorium that we have at the present time with respect to the issuance of meters in the area.

So the point raised by Mr. Starr is extremely pertinent. There is in existence a policy of this Board for no issuance of meters in the area until the ending of this particular year.

So I think, if there's no objection on the part of

the members of this Board, that we shall continue to adhere to that. That there be no meters being approved for issuance at this time in the anticipation that hopefully we'll get all things ready and going by early January.

If there's no objection on the part of the Board, so ordered.

Shall we proceed to the next item?

MS. NAGO: Item D, Mr. Cravalho.

CHAIRMAN CRAVALHO: A request from Jackie Tavares on behalf of Mathilda Carvalho for subdivision of the property in the country area. It's all your's.

MS. TAVARES: I'm Jackie Tavares. I'm helping Mathilda Cravalho -- Carvalho in doing her subdivision, and she sits back there. She's the owner of the property. There was a misunderstanding in regards to the configuration of the three lots. Did you all get corrected copies?

If you look at the configuration, the original copy that was at the County had three lots. One was parallel to Lilikoi Road, the next one was lot 2, and the bottom was lot 3 with a 40-foot easement coming in. That has been redesigned. It's still three lots. There's still a 40-foot access to the back lot.

However, now two lots face Lilikoi Road. It was just for the family purposes in reviewing the first one put together and the second one put together. It was more feasible for one family to take one piece, and the other whole family to take the other piece. And that was the purpose of combining the two lots to Lilikoi Road.

We would like to request that the Board postpone the water system improvements. That's on your handout on lot A and B until Mrs. Carvalho passes on and the moratorium is lifted for the following reasons:

Number one, there is presently a moratorium on building. So if you would -- well, and Mrs. Carvalho's children will not have access to the property until she passes on. And number three, even though Mrs. Carvalho would do the improvements, she still could not build on this property because of the moratorium.

In this regard, we're hoping that you would allow

her to only postpone until such time as she passes away and the moratorium is lifted.

I had another question. On page 83 of your packet, at the very bottom, number 1 -- there's 1 and 2 there. The sentence reads, "The transfer shall occur until after the death of Mathilda Carvalho."

I am asking if there was an omission of the word "not," so that it would read in such where, "The transfer shall not occur until after the death of Mathilda Cravalho." I don't know who typed this up, but I would like to insert that.

CHAIRMAN CRAVALHO: That's a typo.

MS. TAVARES: Thank you.

CHAIRMAN CRAVALHO: Are there any questions from the members of the Board?

Mr. Nakamura.

MR. NAKAMURA: Mr. Chairman, I believe we discussed this a little bit at our last meeting. My recollection is that the only issue was that this was different in a sense that the property was to be conveyed to a trust instead of directly to the family members and with the conditions recommended by the Board. I assume with that one change, you have no objection to that?

MS. TAVARES: And also I notice on that page, page 83 at the top, it gives the subdivision requirements that you are asking her to fulfill. Am I to understand that that is to be done at the point of approval? Or, is that to be done after she passes away?

MR. NAKAMURA: I would assume that the improvements would be the improvements required at the time that the subdivision is actually consummated. I don't know.

MR. CRADDICK: No, it's when they do something to require additional water. The subdivision is all done, completed, but no building or no additional meters until the improvements are done.

MS. TAVARES: So if I can clarify this. You are saying that I'm asking you to postpone the water system until she passes away and until the kids decide to build something; is that right?

MR. NAKAMURA: Mr. Chairman, I would move for approval of the request subject to the conditions recommended by the director.

MR. RICE: Second.

CHAIRMAN CRAVALHO: Mr. Starr?

MR. STARR: I want to have an understanding for myself. How does this differ -- I think this is a question for the director.

How does it differ from a normal family subdivision waiver?

MR. CRADDICK: The land is in a trust instead of actually transferred to family members, which is what this 216 is. It's a family subdivision. The trust actually takes on a life of its own. Something could happen with the trust, it could be taken out of the -- the trust could be dissolved before she passes away. There's a lot of things that could happen with the trust. I think we're comfortable enough with it that it's not an issue for us.

MR. STARR: It's not a question on a number of lots, right?

MR. CRADDICK: No, it's just that a trust takes on a legal entity all its own.

CHAIRMAN CRAVALHO: This Board is so fortunate that we're all qualified attorneys and we don't need to make reference to corp counsel.

MR. TAGORDA: That's my question next. This is for our corporation counsel and some of the agencies involved in this final approval subdivision. Since this land is in the State Land Commission, I know we just passed an agricultural district ordinance recently. Any relation that this subdivision should also go to those different agencies?

MR. FUKUSHIMA: They will go to the Department of Public Works and Waste Management who administers subdivisions in the county. They would review it. It would also go to the Planning Department who would review it for matters under their jurisdiction. And it goes through the normal process as any other subdivision.

What this Board is approving is this Board is approving the subdivision water requirements.

MS. TAVARES: That's correct.

MR. FUKUSHIMA: That you would defer these improvements until such time as building permits are requested or additional water services are requested. Until that time, there are no required water system improvements, and the subdivision goes through like any normal subdivision.

MS. TAVARES: Okay.

CHAIRMAN CRAVALHO: Any further discussion?  
Clarification?

It is the opinion of the Chair, and correct me if I'm wrong, that while if the Board approves a waiver, this means that this waiver shall be present and in existence precisely as indicated. And it will be binding on all subsequent divisions or what have you. I don't want to see subsequent boards of water supply being approached to waiver a waiver again. And sometime along the line, somebody is going to get away for not doing and not putting in the necessary improvements and requirements.  
Is that your understanding also?

MS. TAVARES: Yes, it is. May I ask another question, please?

CHAIRMAN CRAVALHO: Sure.

MS. TAVARES: I heard -- and you know when you hear something they say always go to the source -- that if she goes -- the family does go ahead and put together this whole thing that you are asking, which you are asking 2,500 feet of

six-inch waterline, there presently is there a four-inch line with two fire stand-up pipes, as I understand it.

Am I saying it right or wrong, Herb?

MR. CHANG: Close enough.

MS. TAVARES: Close enough. Thank you.

So my question is: Why are you asking her to do six?

Why are you asking the family I should say? Not her because she won't be here.

MR. CHANG: The reason why is the fire code. The four-inch is a little too small. The six-inch is about the right size. And that's according to standards.

MS. TAVARES: In that case, if this were to be put into effect, is there any reimbursement through the water department that goes to the family who does this because -- I'm not really familiar with meets and bounds and feet and all of this. Does the 2,500 feet of six-inch waterline only cover from her property lines along Lilikoi Road? Or, are we talking about further than that?

MR. CHANG: To answer your first question, she will be entitled for the reimbursement for the 2,500.

MS. TAVARES: She'll be reimbursed for the whole amount?

MR. CHANG: For half of the cost.

MS. TAVARES: Could I ask you to put that in writing?

CHAIRMAN CRAVALHO: One moment. One moment. Don't speak for subsequent water boards. You speak for the situation as it may exist today. As it exists today, that is our understanding. That's all the authority we have. Let's stick to that. Now with respect to the fire requirements. I think it is only fair to say that there is a difference of opinion as to whether this Board has, in fact, authority to act on fire requirements above and beyond those that have been prescribed and required by the Department of Fire Control. I happen to think that we don't. But that's a separate question. But as long as we understand what this involves, I have no problems

with what has been discussed thus far.  
Are you ready for the question? All in favor say aye.  
(A chorus of ayes.)  
Contrary. Carried.  
Can I make the same suggestion to you? Disappear  
when you can.

MS. TAVARES: Thank you very much.

CHAIRMAN CRAVALHO: Communications from a Mr. Donald Nordgren. That's on page 97. What's the pleasure of the Board? The recommendation of the Chair's referral to committee of Mr. Nobriga. No objection. So ordered.  
Communication 00-44 from Edward T. Esty for the use of a temporary -- for the use of his present meter to fill up some tanks temporarily, whatever the case may be. If there's no objection, refer to the Committee of the Rules.  
A request from Andrew and Sheila Fujikawa for a water meter Kula Haleakala. Anyone here to represent them? If not, refer to Committee of the Rules.  
Communication 00-46. Request from Mr. Sameshima.  
Mr. Sameshima.

MR. SAMESHIMA: Good morning, Mr. Chairman. We have requested of the Board waivers from certain purported requirements. And as indicated in our submission, we're incorporating all of the documentation testimony and so forth from the previous request for declaratory order to be considered by the Board. There's been a report by the department and so forth, and we ask that that all be incorporated into and considered as part of our request. We have gone over this before. I believe there was a Committee of the Whole meeting regarding some of the issues, and there was a subsequent report from the department. And so we have asked for this waiver, again, based on the fact that as indicated in my letter dated September 14th, the four reasons a waiver is appropriate under the rules. We ask the Board to go ahead and approve the request for a waiver at this time.

CHAIRMAN CRAVALHO: The Chair asks corp counsel for comments on the request before us.

MR. FUKUSHIMA: The request is certainly within the

jurisdiction of the Board, with respect to waiver of subdivision requirements. It's an appropriate request, based upon the circumstances surrounding this case. It's appropriate for the Board to consider a waiver.

CHAIRMAN CRAVALHO: What's the pleasure of the Board?  
Mr. Starr.

MR. STARR: I'd prefer dealing with it this way than the other way.

CHAIRMAN CRAVALHO: You and me both. If there are no objections, may the record reflect by unanimous consent that the waiver is granted.

MR. SAMESHIMA: Thank you very much, Mr. Chairman and board members.

CHAIRMAN CRAVALHO: Same advice. Go.

A request from Sandy Daniells for relocation of a water meter.

Why does this have to come to us, Mr. Craddick? Is there anybody here representing Ms. Daniells? Come in. Your request is to move a water meter from point A to point B?

MS. DANIELLS: Yes.

CHAIRMAN CRAVALHO: Have you been denied? Has your request been denied by the Department?

MS. DANIELLS: Yes. We have talked to the engineers in the department and they say --

CHAIRMAN CRAVALHO: What was the rationale?

MS. DANIELLS: They don't move a meter across property lines.

CHAIRMAN CRAVALHO: Oh, Christ. I have heard of bureaucracy, and I have seen it in action. My understanding again is it's in effect like a waiver. If they say no, waive it. If you move a meter from point A to point B may cross the property line or whatever, all parties agree. Any objection to

the granting?

MR. NOBRIGA: No.

CHAIRMAN CRAVALHO: May the record reflect that the request is granted and the department proceed to act in an understanding manner and a cooperative manner. Things come before this Board that should never come here, if there's proper concern for the people. So ordered.

MS. DANIELLS: Thank you.

CHAIRMAN CRAVALHO: The Upcountry water situation. Mr. Craddick.

MR. CRADDICK: The Wailoa ditch was 135 million today, the Kamaole treatment facility produced 3 million gallons yesterday, Piiholo treatment facility is a hundred percent full, production was 1.96 million, Waikamoe reservoir is 63 percent full. Kahakapao is about 97 percent full, the Olinda treatment facility produced about 1.6 million gallons. Total demand on the upcountry system was 7.6 million. Average demand for the past week 8.1.

I passed out earlier in the week -- we get this quarterly El Nino update. It says, the year to date numbers improved a bit in July four sites have managed to poke above 60 percent of normal, and we're talking about rainfall here. The highest being Haiku, in terms of the standard participation index, all periods 1 through 18 months indicated values above negative 2, which is extremely dry category. That's the projection outwards for 18 months.

CHAIRMAN CRAVALHO: Any questions? The Chair recognizes Mr. Starr.

MR. STARR: I feel it's time for us to move away from the emergency situation that we have been in for a while and hope it rains and help us meet system demand. So I move that we take down the emergency.

CHAIRMAN CRAVALHO: Is there a second?

MR. TAGORDA: Second.

CHAIRMAN CRAVALHO: You've heard the motion duly made and seconded. We can discuss this ad infinitum, but the facts are there. We have a supply. Adequate. Nothing is to preclude us from taking subsequent action at any time should the conditions change.

If there's no objection, may the record reflect a unanimous decision of the Board that the moratorium is lifted.

MR. STARR: Excuse me, the emergency.

CHAIRMAN CRAVALHO: The emergency. As far as I'm concerned, the moratorium is also. We can discuss it later, but the emergency is lifted.

The Chair would like to reiterate a couple of things that this Board has acted upon in the past. This Board took action in this memorandum of understanding. It provided the groundwork and the guidelines, and there is an adequate supply that's available, unless you have a tremendously dangerous situation which develops. And we have the cooperative efforts of A&B, EMI, the proceeds from the Dowling well, the potential of the H'poko wells which says we can have a manageable condition, and we can have a manageable situation, if management is willing to manage.

If management does manage, there's no reason why there should be any dilution of the storage and the amounts in storage. We have the authority for withdrawal, we exercise it. If there's a question of money that's a fiscal decision, that's the responsibility of the Board.

The general public should not be denied adequate protection and adequate supplies. This Board should never hide behind any rule or reg or whatever, be they be valid or not. I have a couple questions in that area.

I have a suspicion, and I'm not sure that the department is making reference to shortages and making reference to rules that are no longer valid. Rules that may have been covered by court decisions in the Smith versus Craddick case which went all the way up to the Supreme Court of Hawaii. Which said that with the exploration of the Kula Rule -- and in the absence of a rule, there is no rule. There has been no justification for the movement in meters or what have you.

Let's look at these questions. And if we manage,

and if management does manage, there is absolutely no justification in that Upcountry area. Absolutely none. If this is true, we're bordering on the basis -- on the borderline of negligence and mismanagement. And as it has been pointed out to the Chair sometime ago, what has been allowed to happen in that area has been nothing short of criminal. And I take that same position.

Now, with that particular area, taking care of and handled, let us go give our attention down here, which is absolutely urgent. Absolutely urgent. Let's not go hide behind numbers and hide behind whatever we want to hide behind. We have to meet that need for the growth, for the salvation, and the strength of this community.

Let's focus our attention where the need is. And it is here on this Iao aquifer. And we've got to move. And I'm sure Mr. Takitani and his people and his negotiating committee will have matters in hand to come before this Board within the foreseeable future.

The Chair wants to thank all of the members of the Board, the members of the public who have supported the decisions that have been made. The Chair also wishes to thank the administration. We have come a long way from where we used to be, and it's all positive. And I think we need to recognize that. And we can solve the problems.

End of sermon. It's been a long time since I gave one.

MR. STARR: I have a question. I agree with what's just been said. I would just like to be sure that we are looking as to how we'll deal with the Upcountry situation at the time when the moratorium does get lifted and with the priority list still in existence and so on. I think we should --

CHAIRMAN CRAVALHO: Have no fear. Have no fear. There's method to my madness, I can assure you. Any other matter before this Board?  
Mr. Pierce.

MR. PIERCE: Mr. Chair, I understand that the Board this morning approved the committee reports including Committee Report 00-02 from the Oversight Committee. I wanted to ask if you would allow an opportunity for us to understand a clarification of the committee report.

CHAIRMAN CRAVALHO: The Oversight Committee report was not adopted as such. The whole matter is referred back to the entire board.

MR. PIERCE: So it will come up at a later date?

CHAIRMAN CRAVALHO: At the very next meeting.

MR. PIERCE: And then, Mr. Chair, on a different matter, I'm also here with Mr. Stolle today. I talked with Mr. Rack, and I'm wondering if this might be a good opportunity for us to meet in executive session with the Board to explain --

CHAIRMAN CRAVALHO: No.

MR. PIERCE: Will we have an opportunity to do that at a later date?

CHAIRMAN CRAVALHO: That will be decided subsequently. And if you wish to have an open meeting, the Chair's prepared for an open meeting on this particular subject.

MR. PIERCE: Whichever one the Board prefers. Thank you, Mr. Chair.

CHAIRMAN CRAVALHO: There are some very pertinent matters that deal with this particular thing. Very pertinent. Just parenthetically, so you can mull upon this, you can mull on this, initially, the decisions of this Board were ignored by parties that be. In spite of requests and in spite of directions, it was ignored. This ignoring of this public policy that had been determined by this Board has resulted in this particular matter being taken to the courts, which I believe are the appropriate positions to take. This was followed by a request that we authorize independent counsel to defend an individual who defied the decision of this Board and to use public funds to support a defying of public policy. The better course of wisdom took place, and that has been withdrawn. With respect to your particular proposal, without getting into details, these are factors that we need to

consider. We need to consider, Mr. Stolle needs to consider, we need to consider the damages done to all parties, and we need to consider the suffering and the deprivations of your client. I'm well aware of that.

But the compassion of this Board should never result in an approval and the sanctioning being given to any individual, to any employee who defies the decision of this policy-making body. And I think those are very valid positions, and they are very valid concerns. And that this should serve as a notice to all parties, to all employees at all times. You do not have the right to take everything into your hands which is in complete and total defiance of a policy decision made by a correct body such as this.

This has nothing to do with the justification of the cause of your client. But it's an overall kind of thing. You have a thousand employees and a thousand employees decide they're going to go marching to Georgia, regardless of the consequences.

Where are we? We have anarchy. We need to recognize this.

Enough said. No objection. Meeting is adjourned.

MR. CRADDICK: What about Paukukalo?

CHAIRMAN CRAVALHO: You mean the burial people in Paukukalo?

MR. CRADDICK: They're not here. We don't have to wait for them, but it's an item on the agenda.

CHAIRMAN CRAVALHO: Okay, I'll withdraw my adjournment.

The Paukukalo situation. You asked for additional monies. I think the amount of money you have asked for exceeds a possible cost. I think there's a little additional monies in there and not \$1,000 either.

If there's no objection on the part of this body, refer this matter to the Finance Committee with authorization to make the appropriate appropriations approved in advance to meet the absolute costs and nothing more. Fair enough?

MR. RICE: Fair enough.

CHAIRMAN CRAVALHO: So ordered. Can we adjourn?

Yes, ma'am.

MS. FREITAS: I'm sorry. I'm Marina Freitas. When it comes under oversights --

CHAIRMAN CRAVALHO: The entire matter is referred back to this Board, which we'll take up.

MS. FREITAS: Sir, it's been going on and I received a letter saying that the committee had said that they felt that there was no reason not to --

CHAIRMAN CRAVALHO: Excuse me, ma'am. The committee report was not adopted on this day, and therefore the entire committee report has been sent back to this entire Board. And we're going to take care of it.

MS. FREITAS: I understood from the letter that it was taken care of and that we would deal with it today. My mistake.

CHAIRMAN CRAVALHO: Excuse me, ma'am. It was taken care of. You're right. It was taken care of at the committee level; but the committee is just a committee. It needs to report back to the entire Board. When that report came back to the entire Board, it was the wisdom of the Board that it comes back entirely. It comes back to the Board. And I assure you we'll take it up at the next meeting.  
Yes, ma'am.

MS. NARDIN: I'm also -- the rule committee.

CHAIRMAN CRAVALHO: The same thing, ma'am. I hope we leave you people the impression that we try to move. I try to move.  
Thank you members of the Board.  
(The proceedings were concluded at 10:10 a.m.)

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