

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
December 28, 2000 pursuant to Notice.

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

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

Members present:

Elmer Cravalho, Chair
Clark Hashimoto
Orlando Tagorda
Adolf Helm
Howard Nakamura
Bob Takitani

Staff present:

David Craddick, Director
George Tengan, Deputy Director
Mike Quinn, Fiscal Officer
Jacky Takakura
Fran Nago, Board Secretary

IWADO COURT REPORTERS, INC.

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*(The first five minutes of the proceedings were reported by
Fran Nago, Board Secretary.)*

MR. CRAVALHO: Isn't this a bonded project?

MR. CRADDICK: It is bonded. We suspect when we

cancel the contract or terminate the contract, we're not really sure what will happen with that; but we have got two choices: we can go to court with them or terminate the contract and they may or may not come after us.

MR. CRAVALHO: Are you saying, Mr. Craddick, one is not dependent on the other? It's an either/or case?

MR. CRADDICK: Those are pretty much the two options. We tried to work with them to get this resolved without terminating the contract, but we gave them a letter saying to respond to us by early December; they didn't respond, so we're terminating the contract.

MR. CRAVALHO: In the process of terminating the contract, does it automatically terminate the bonding requirements in the bonding provisions?

MR. CRADDICK: No. If our costs go over, again we would have to go and collect that.

MR. CRAVALHO: I understand that. The chair's position is relatively simple, that the project is very necessary; it should be initiated, implemented, and completed. However, nothing should be done verbally or otherwise that could be construed as allowing the bonding company to be off the hook.

MR. CRADDICK: That's correct.

MR. CRAVALHO: We still have our recourse through the bonding company. May the record so reflect that. I thought we would have a very good day.

MR. HELM: Mr. Chair, I would like to ask Mr. Craddick something. So by withdrawing your request for \$90,000, are we saying we're not going to proceed with the project until we get some legal matters taken care of?

MR. CRADDICK: No, there is \$90,000, there's not sufficient money in the contract to do that. And without terminating the contract, we couldn't take that money in the contract and use it for certification of other funds. So what

we're doing here, because it's within the money that's in the contract, we're actually terminating the contract and using -- we will then use those funds to certify the proposal that we got.

The board would like to take action on that and ratify that action; that's what we intend to do. But those funds are always certified for the job. So I'll leave it up to Howard whether the board needs to take action on that. We think that since the funds are already certified for that job, if we cancel the job and use what funds carry over --

MR. CRAVALHO: If you cancel the job; you cancel the contract.

MR. CRADDICK: Yeah, right, you cancel the contract.

MR. TAGORDA: Saying that we have sufficient funds when this contract is terminated, can we proceed immediately to finish up this project?

MR. CRADDICK: Yes. I just told you we have to wait the ten days, the contract requires that we allow them to, I guess, come back and contest it. That's all.

MR. HELM: With that in mind, David, we're pretty much in position to proceed and move forward with the project once this lapse of time occurs?

MR. CRADDICK: Yes. We would expect we would be able to finish by the end of January.

MR. CRAVALHO: Provided, however, if there's no legal challenges.

MR. CRADDICK: Even if there's legal challenges, they would be independent of this going ahead.

MR. CRAVALHO: You and I both like to practice law without a license.

MR. TAGORDA: Mr. Chairman, a follow-up question.

MR. CRAVALHO: Go ahead.

MR. TAGORDA: If we have legal problems of using the funds from the original contract, can we proceed and fund this, Mr. Chair?

MR. CRAVALHO: That's precisely the concern that the chair has; that if there are any challenges to the termination, will it hold up any and all action? That's my concern. The chair would like to refer this to committee for the procedural setting up of an appropriation to proceed so nothing is held up, and at our next meeting we formalize it, unless there are any other legal problems. I can see some potentially, some problems.

If there is any challenge to the termination, perhaps with what could be looked at if a termination were based on the nonperformance, but that might be necessary to accompany that with a claim against the bonding company.

MR. FUKUSHIMA: I believe we have, Mr. Chairman, I believe we have sent a number of letters to the bonding company.

MR. CRAVALHO: Mr. Craddick?

MR. CRADDICK: If we wait on this, right now the low proposal is \$24,900 and change. It allows us to do the work under a requisition, not doing a contract. As far as the existing contract, once the ten-days' notice is given, it's totally up to the discretion of the procurement officer, which is myself, to terminate the contract.

They do have recourse; they can challenge it but they cannot reinstate the contract. They can just challenge that, hey, we should have been paid more than what we got paid. Things like that. They can't challenge -- I'm not saying this on my interpretation of legal. We went over this with corp counsel yesterday.

MR. CRAVALHO: What representative of corp counsel's office?

MR. CRADDICK: Tom Rack.

MR. CRAVALHO: That's what I thought. I have as

much confidence in his opinions as I have on the justification for teats on a boar.

MR. CRADDICK: If that's what you want to do, that's up to you. There will be this escalation charge that will carry it over the 25,000 --

MR. CRAVALHO: Mr. Craddick, it's the opinion of the chair that as it relates to the matters of the Board of Water Supply as contrasted to matters of the department and your legal advice, is it formalized on the advice of our corporate counsel representative who is here?

I have no objection to the project. I think we need to do everything to expedite it rapidly, but I do have some reservations on some of your off-the-cuff legal opinions. We need to get that cleared up and go with it. I think we can do it as long as we have this understanding, yeah? No objection? So ordered.

MS. NAGO: Mr. Cravalho, you did not mention which committee you want to refer it to.

MR. CRAVALHO: The usual, Mr. Nakamura and finance.

MS. NAGO: Finance, thank you.

MR. CRADDICK: Mr. Nakamura and finance.

MR. CRAVALHO: Shall we go on to Communications, 00-50, legislative liaison. Mr. Craddick?

MR. CRADDICK: George, can you hand me that one there?

MR. TENGAN: For the past several years we have been using legislative liaison during the sessions and we would like to continue the service. Last year we paid the liaison \$2100 plus some expenses for the four-month period. This year we're recommending that we pay \$2500 plus some other pocket expenses. There's a typo in the report, 2500 rather than 25,000.

MR. CRAVALHO: A 20 percent increase.

MR. TENGAN: I guess about that.

MR. CRAVALHO: It is.

MR. TENGAN: What the board has to understand is that the last year the amount was the same as the previous year also.

MR. CRAVALHO: It's the opinion of the chair that expenditures should not be arbitrarily picked up. All of the other counties agreed to a 20 percent increase as well?

MR. TENGAN: Only Kauai and our department are using the services. We were using the services last year and it will be the same this year.

MR. CRAVALHO: And they approved a 20 percent increase?

MR. TENGAN: I'm not sure of that.

MR. CRAVALHO: Chair would suggest we refer this to the next meeting in January and to the finance committee. Mr. Deputy, the day is coming relatively soon for where this board is going to be faced with cost items as they relate to attending to the water needs and the water problems of Central Maui, of which you are fully aware of, that we meet supply and the availability does not meet those projects which have already been authorized.

And this could very well result in some kind of a proposal for funding and increases, so I think we need to be very cautious. The amount of money is not that great, but we're going to be facing these problems. Refer to finance committee.

Old Business, request from Mr. David Niehaus. I believe this came before the board last time.

MR. CRADDICK: He called this morning saying he would not be able to come to the meeting.

MR. CRAVALHO: I beg your pardon?

MR. CRADDICK: He called this morning saying he could not come to the meeting and if we could defer it.

MR. CRAVALHO: Okay, defer it. Request from Mr. Bob Yonahara. Have you made any progress in your thinking, Mr. Yonahara?

MR. YONAHARA: That's a letter I wrote to you saying I would like to pursue the easement agreement.

MR. CRAVALHO: You would want to have what done, sir?

MR. YONAHARA: Continue pursuing the easement agreement.

MR. CRAVALHO: Will staff, then, proceed with the necessary work for the easement? I believe that there had been recommendation, Mr. Nakamura, do you recall that? Mr. Yonahara's --

MR. NAKAMURA: I believe this was in finance. I can't remember what the recommendation was.

MR. CRAVALHO: At the last meeting I believe the gentleman had indicated that he was not in complete agreement. At that time you wanted more time to review it.

MR. YONAHARA: Actually, when I met with the finance committee, we were discussing and the meeting was recessed and was never reconvened.

MR. CRAVALHO: We shall continue that with you and Mr. Rice. Okay?

MR. YONAHARA: Thank you.

MR. CRADDICK: Mr. Chair?

MR. CRAVALHO: Yes, Mr. Craddick.

MR. CRADDICK: On the last item, I got the message, but the message was just he is not going to be here. As far as the deferral, I'm quite confident he did not ask for any deferral. I think Howard has some other information that he gave to Howard.

MR. TAGORDA: Who is this now?

MR. HASHIMOTO: Niehaus.

MR. CRAVALHO: Niehaus. The chair has decided to defer. Proceed to the next item. We don't have numbers. We don't have five. When I went to school, I learned how to count at least up to five. Chair proceeds to the next one, Victor Sher. Mr. Fukushima?

MR. FUKUSHIMA: Thank you, Mr. Chairman. As you know, Victor Sher, his firm represented the board in the lawsuit regarding DBCP contamination. They were contacted by another water operator on the island and exercising an abundance of caution, requested that the board allow them to represent the other water system. What they were looking at was a potential conflict of interest by their representation. When we reviewed the facts, we did not believe that any conflict existed.

We contacted the office of disciplinary counsel who is in charge of monitoring and looking at attorneys' actions in the state. We related to the ODC facts surrounding the potential conflict of interest and they agreed with our office that they saw no conflict whatsoever. So at this time we have resolved the issues of conflict of interest and believe that this matter should be filed.

MR. CRAVALHO: Questions from members of the board? Communication is placed on file as per the request of corp counsel's representative. Communication 00-51, Debra Mapel. Regarding fluoridation of the Molokai water systems. Is Ms. Mapel here? Ready to listen to you.

DEBRA MAPEL: I gave all of you this morning a booklet, fluoridation facts, and you'll find a copy of my testimony.

Good morning, Chairperson Cravalho and members of the Maui Board of Water Supply. My name is Debra Mapel, facilitator of the Molokai Dental Health Coalition. I'm here today to request the adjustment of the naturally occurring fluoride in our water to the optimal level that is necessary for the proper development and protection of

the teeth; fluoridation of the Molokai water system as a critical and essential service.

The Molokai Dental Health Coalition is a community driven force to improve the dental health condition on Molokai. A cooperative effort of dental and health care professionals on Molokai, the Molokai Health Foundation, the Molokai General Hospital and the Hawaii State Department of Health embrace prevention as its first priority. Fluoridation was identified as the key to preventing tooth decay and improving oral health.

Recent data still has Hawaii with the worst tooth decay rates in the nation. What makes this statistic so appalling is a remedy is available; a remedy that has been recognized as one of the top advances in public health in the last century; a remedy that is safe, efficient and cost-effective; and yet a remedy which we have failed to provide to our community.

Bruce Anderson, director of the Hawaii State Department of Health, remains committed to providing the financial and staffing support needed for implementation of a water fluoridation program on Molokai.

Based upon a site visit involving Department of Health and Maui County water system engineers, and a review of documentation relating to water system configuration and output, the first year installation and operating expenses would total \$142,000. The highest annual island-wide operating expense is an estimated \$10,100 for fluoride.

Implementation of fluoride supplementation is recommended for four of the five public water systems. These systems are Maunaloa, operated by Molokai Ranch; Hoolehua, operated by the Department of Hawaiian Home Lands; and Kaunakakai and Ualapue, both operated by the County of Maui. These water systems serve 6,317 individuals through 1,973 service connections. The Kalae water system, which is fed primarily by the Hoolehua system, is not recommended at the Kalae system source.

The evidence is overwhelming, fluoridation is considered beneficial by a majority of the health and scientific community; 48 of the 50 largest U.S. cities have adopted fluoridation or are naturally fluoridated; those of greatest need in our community will benefit the most simply by drinking the water, not just those with access to dental care.

We acknowledge there is a significant minority of

the community suspicious of fluoridation placing undue emphasis on unfounded concerns of using fluoride rather than on its profound beneficial effects. Others object to it on the grounds of individual choice, which we respect. Sometimes individual preference must yield to the greater need. For a community to realize more equitable opportunities of good health sometimes means that its leaders must make decisions that are better for society as a whole.

We require children to be inoculated against diseases; require the use of seat belts and car seats for children; require others to abstain from tobacco use in public buildings. All of these measures infringe on individual liberty but are taken for the benefit of the community as a whole.

Former U.S. Surgeon General, C. Everett Koop, M.D., stated, "Fluoridation is the single most important commitment that a community can make to the oral health of its citizens." The Molokai Dental Health coalition urges you to act for the greater good.

Thank you for allowing me to share with you the strong support of community water fluoridation and your gracious consideration of this request.

MR. CRAVALHO: Thank you very much. Do you have any questions?

MR. NAKAMURA: One quick question. You mentioned the Kalae system is not recommended for implementation. Why is that?

DEBRA MAPEL: I'll let David answer that.

MR. CRADDICK: If you notice, right before that it says it's mostly fed from the Hoolehua system, that's Hawaiian Homes, that would be fluoridated. So probably 75 percent of the time they would be getting fluoridated water. We have a tunnel source that we use from time to time whenever there's water in it, but it's not that reliable a source.

MR. HELM: Mr. Chair, maybe this is a question I can pose to Howard Fukushima. In response to this kind of initiative, is there a public hearing that's required to move this initially on board?

MR. FUKUSHIMA: Frankly, I'm not sure, I just don't know at this time. I can look at the question and report back to you next time.

MR. CRAVALHO: The chair would like to refer this for Committee of the Whole. No objection? So ordered. Communication 00-52. Request from Mr. William Worcester for a waiver of fire protection.

MR. WORCESTER: I'm going to read a quick letter I wrote to the board and then add one comment to it.

Dear Mr. Cravalho, I'm requesting a waiver of fire protection requirements for TMK 2-2-14-015, in order to build a workshop. My building permit number is A002530. I have an existing water meter and am not subdividing the property. The building will not be plumbed and I am not requesting additional water service.

My property is located in the small town of Waiakoa, Kula, and fronts old Lower Kula Road. The property sits between the Waiakoa gymnasium and the veterinary clinic. Catty-corner across the street is Morihara Store and the 808 Cafe is directly across the Morihara Store. The above mentioned neighbors are commercial businesses and are open to the public.

At the request of the water department, I had an engineering report prepared by Linda Taylor Engineering, Inc., to calculate the fire flow for the workshop. It was estimated to be 750 gpm. There was no credit given for the fire hydrant at Puakea Drive or the close proximity of the new Kula fire station. The county requests that I extend, at substantial expense, a 6 inch waterline and install a new fire hydrant in order to get a building permit.

I believe that adequate fire protection is available for my property. The proposed workshop will be noncombustible, made of concrete, steel and glass. It will not be open to the public. The workshop will be primarily used by myself and my wife Sally. We are designers, sculptors and inventors and have made our living as such since 1972.

The new Kula fire station is within eyesight of the property and the fire hydrant No. 338, at the base of Puakea Drive, is less than 450 feet distant. There is a 2 1/4 inch standpipe at the northeast corner of our property, on old Lower Kula Road.

Regarding the County of Maui's Waiakoa gymnasium, two points stand out: one, the recent arson fire was contained and put out with the existing fire protection system; and two, the county did extensive and costly remodel to the gymnasium and did not upgrade the fire protection system. One could assume that the county did not deem it necessary. The gym is an entirely wooden building and considerably larger than our proposed workshop.

Enclosed are existing maps of the property and its surroundings and a copy of the fire flow calculations.
Respectfully yours, William S. Worcester.

After I sent this letter on the 13th of December, it came to my attention that the county has the plans, the engineering plans done to extend the waterline from Naalae Road to Kainana. So it's all in the works. I think that for the little things I'm asking for, it would be a big expense for me to put this in and it would be kind of done on a piecemeal basis.

MR. CRAVALHO: Are there any questions?

MR. HELM: I have one for David. What is the recommendation from the department in regards to this?

MR. CRADDICK: I think he's right. There's a CIP program to put a line in, so the time between now and the time that the CIP project would be done, I say one to two years at the most. Provided the board goes ahead with it. It's not that big of a risk.

MR. CRAVALHO: Are there any other questions? If not, the chair would like to refer this to the committee of Mr. Nobriga's and report back to us at the next meeting.

MR. WORCESTER: Could I get a schedule on when that committee meets?

MR. CRAVALHO: Well, Ms. Nago will keep you informed when Mr. Nobriga will have his meeting.

MR. WORCESTER: Mahalo.

MR. CRAVALHO: That can be done, Ms. Nago, in the

year 2001?

MR. TAGORDA: In December.

MR. CRAVALHO: Preferably. Shall we proceed to the next item? Hamakuapoko well sites. Mr. Craddick?

MR. CRADDICK: This one here we don't have the resolution yet from corporation counsel. We have to defer this item. Or if you want to refer it to the committee, to the resolution committee, that would be all right.

MR. CRAVALHO: Next meeting?

MR. CRADDICK: Okay.

MR. CRAVALHO: Proceed to the next one, Basil Milan. Ready for that?

MR. FUKUSHIMA: I don't believe so. Request a deferral.

MR. CRAVALHO: Deferral. Financial audit report, refer to the Committee of Finance, Committee of the Whole jointly. Update on water issues discussed at public meetings. Is there any discussions on that? If not, is other business to come before the board? Okay, meeting is hereby adjourned. Happy New Year to everyone and we'll see you next month.

(The proceedings were concluded at 9:45 a.m.)

IWADO COURT REPORTERS, INC.

"By Water All Things Find Life"

Department of Water Supply
County of Maui
P.O. Box 1109
Wailuku, HI 96793-6109
Telephone (808) 270-7816
Fax (808) 270-7833

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