

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
November 22, 2000 pursuant to Notice.

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

ATTENDANCE - Board of Water Supply Meeting, November 22, 2000

Members present:

Elmer Cravalho, Chair
Clark Hashimoto
Mike Nobriga
Jonathan Starr
Adolf Helm
Howard Nakamura
Bob Takitani

Staff present:

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

IWADO COURT REPORTERS, INC.

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CHAIRMAN CRAVALHO: The meeting of the Board of
Water Supply will come to order. There's a slight error on the
clock, it shows one minute in advance. But it's nine o'clock
by my watch.

Ms. Nago, will you call the roll or make the
introductions of the people who are here?

MS. NAGO: We have Elmer Cravalho, our chair; Clark Hashimoto, Mike Nobriga, Jonathan Starr, Adolf Helm, Howard Nakamura. For board members we have David Craddick, director; Mike Quinn, fiscal officer. Bob Takitani just arrived. We have George Tengan, deputy director; Jeff Ing, Kent Smith, we have Ron Richman, we have Mr. Shishido, and we have Matthew and Sandra Daniells. We have Mr. Hoekstra, Peggy Ann Hoekstra, Issac Hall, Peter Stolle, Tom Pierce, and Glenn Kosaka.

CHAIRMAN CRAVALHO: The quorum of the board is here. Can we proceed with the agenda? The minutes. Mr. Starr?

MR. STARR: Before the minutes, I would just like to make a comment. I distributed some mugs that were from the AWW Hawaii Foundation. I made a donation sometime back, they sent me a bunch of mugs. I like the theme "Water For People," which is why we are here. Everyone think good thoughts about getting water to the people when you use the mugs.

CHAIRMAN CRAVALHO: Are you placing a restriction as to the use of the mugs for water purposes only?

MR. STARR: No. Anything that -- the liquid will have to contain water.

CHAIRMAN CRAVALHO: Okay, thank you. Previous minutes. Mr. Nobriga?

MR. NOBRIGA: I would move that the minutes of October 26, 2000 reconvened to October 31 2000, be accepted and that they be reviewed for 30 days. If there's no corrections, additions or deletions, that they be put on file.

CHAIRMAN CRAVALHO: Is there a second?

MR. STARR: Second.

CHAIRMAN CRAVALHO: Further motion duly made and seconded. Moved by Mr. Nobriga, seconded by Mr. Starr that the minutes be reviewed for a period of 30 days, that there are absolutely no corrections, additions or same shall be placed on the file as part of the record. Any discussion? All in favor

signify by saying "aye."

(A chorus of ayes.)

Contrary?

(No response.)

Carried.

Is there testimony from the public from any matter that you wish to discuss at this time? Mr. Hall?

MR. HALL: Thank you very much. Good morning, Mr. Chairperson and members of the Board of Water Supply. My name is Isaac Hall. I represent the coalition to protect East Maui water resources. I'm here on agenda item 6-D and I submitted a letter to you folks. I don't know if you had a chance to look at it.

But I oppose the dedication of the Smith well to the county for the use as a county well, this is another Dowling deal whereby the developer builds, constructs a well on his own, gives it to you folks and wants special treatment. Wants to go ahead on the list of everybody else and wants to have the water, some water rights to him and other places like Pukalani, Makawao.

I think by now the Dowling situation is something you did not want to repeat. I thought I heard the chair say we're not going to make deals like that anymore. I request that you do not get involved with this deal.

In addition to that, this seems to be circumventing the court orders in the East Maui water coalition case, where a supplemental EIS has to be done for any well that becomes an East Maui well. This one obviously would be if you accept the dedication.

It would also violate another order where you are not allowed to hook up to the west Kuiaha tank, it can't be part of an EM plan well system, which it obviously will become once you hook the well up to it. It would be against the public interest, I think, because you would be putting Mr. Smith up in front of all the thousands of people on your waiting list for water meters.

If you are going to do anything like this, have a public hearing somewhere where all the people around the top of the list for water meters can come and tell you what they think of Mr. Smith going to the top of the list just because he's dedicated a well to you. I don't think he has any correlative water rights he can give to you under the Waiahole (phonetic)

decision and I would ask that you not accept this dedication. It surprises me that he built this well, it's obviously too big for the subdivision that he has proposed. It goes way beyond serving that subdivision, so something funny is going on with it.

MR. CRADDICK: It's too small.

MR. HALL: It's too small. David corrected me.

Anyway, for all the other reasons I stated, I ask that you not accept this dedication.

CHAIRMAN CRAVALHO: Are there any questions or comments? Mr. Starr?

MR. STARR: First of all, I would like to ask staff, I have not seen the testimony. Was it distributed?

MR. HALL: It's a letter.

CHAIRMAN CRAVALHO: There's a letter.

MR. STARR: I think I may not have gotten it.

CHAIRMAN CRAVALHO: The chair intended to address this particular question when that subject matter comes up on the agenda; but it would be appropriate in the chair's opinion to indicate it is the intention of the chair to refer this particular matter for complete study and going over the questions that you have raised and to keep in a consistent manner the agreements and the direction that this board has decided on in working with the East Maui and the Central Maui water situation, etc.

It's not the intention of the chair that we take any precipitant action on any proposal that comes before this board. Parenthetically, the chair had been indicating to some staff members earlier that sometimes matters come before this board and in the interest of rush and in the interest of an emergency, we got to proceed to take action. The chair is adamantly opposed to that kind of an operation. That kind of an operation opens the door for many, many nefarious operations and decisions. So let it be known to all parties concerned that orderly procedures is the intention of the chair. If it means we got to go and have additional meetings, we do. If we don't want, we should get out. Fair enough?

MR. HALL: I think I get the drift.

CHAIRMAN CRAVALHO: I hope.

MR. TAKITANI: Perhaps it would be an appropriate time that we had a meeting with our consultants Mink and Yuen to give us an update of the East Maui plan and the Waiahole/Waikane (phonetic) ditch situation as it relates to stream flow, etc. If we can do it within the next month or so, I think it would be appropriate for us to come to an appropriate and just decision.

CHAIRMAN CRAVALHO: If there's no objection, should we request the staff, Mr. Craddick, to contact the consultant to be available at a regular board meeting during the month of December, and if there's any conflict in terms of a time schedule on the part of the consultants, allow us to know and we can reschedule our meetings so that we can proceed in an orderly manner. Thank you very much, I think it's very pertinent.

MR. HALL: I would like to be notified of that.

CHAIRMAN CRAVALHO: You are notified right now.

MR. HALL: Not of the date.

CHAIRMAN CRAVALHO: We don't dare oppose you, you know that. We're good friends for a long time and that will continue.

MR. HALL: All right.

MR. STARR: Couple of questions. First of all, Mr. Chair, did we not hire a law firm to consult with us on this matter?

CHAIRMAN CRAVALHO: That's a very pertinent question that should come up at that time. It is the gut feeling of the chair that that particular decision of the board has not been finalized or implemented. Let's talk to the consultant when he gets here. You are right.

MR. STARR: If there's such a firm, they should report to us at the time as well. If there isn't, obviously they can't. But I would like to know if there is.

CHAIRMAN CRAVALHO: I think there is. And if I'm not mistaken, the decision was whether we could hire legal counsel or not, that counsel would be attached to Mr. Mink's operation. A request for information, entirely pertinent.

MR. STARR: So the request would be to Mr. Mink?

CHAIRMAN CRAVALHO: Yes.

MR. STARR: Okay. I have one question for Mr. Hall. I know there are a lot of questions here with this matter, and there were a lot of different issues; but I want to try to narrow it down to one issue, which I know in the past I have had a lot of concern with, and just for a minute put all the other issues aside.

But say this was a well that was going to serve the system and it was in such a location that for whatever reason no one had any problem with the location of it or drilling of it or the legality of it.

But if an area were still in a shortage and the well were going to provide for the needs of the customers of a certain developer, would you feel that it would be fair to force the developer to supply more water than his consumers were going to use so that that well would ultimately help make the system adequate, possibly by having 20 percent more or 30 percent more than he was going to use?

Because in the past when this has happened, we have demanded -- we have given out meters equal to the water that the well is actually going to produce. Would you feel it should be more, or do you feel that giving out the same amount is fair?

MR. HALL: The thing that Dowling asked about this is that the developer wants to go to the top of the list and have reserved water meters for himself all over Upcountry. He is going to dig this well in Haiku, like Dowling dug his in Haiku, and reserve for himself the right to go to the top of the list in Kula, Makawao, and anywhere else he feels like it. And that's what is unfair to the thousands of people, I don't want to say thousands of people, but the many, many people on the waiting list that have been waiting for years and years and years, and these guys want to catapult themselves to the top just like Dowling did. That's the

unfairness of it.

And I understand what you are saying, but you are not really helping anybody out by doing this. You are just giving him rights to go to the top of the list, which is what I thought you folks weren't going to do anymore.

MR. STARR: Well, I would like to ask, Mr. Chair, that we create a mechanism for examining the list in full view and with the help of the community.

CHAIRMAN CRAVALHO: The chair wishes to point out that the responsibility rests in your committee. And the chair has not at any time exercised any discouraging elements with respect to this question. This board has in the past repeatedly gone on record as to the apparent unfairness of the meter granting processes that have been in operation for a period of time.

The chair did request of you, Mr. Starr, that during the election period, that the water board would not be embroiled in any partisan politics, more particularly since you were a candidate, so was Mr. Nobriga, it was a gentlemen's understanding on the part of all of us that we don't become embroiled. But the election period is over. Let's proceed. Well, no president yet, that might be a question. Let us proceed with due speed to move in that area; and second, to proceed to set up the mechanisms for the evaluation process of our staff and our director and others. This was a decision made by the board quite some time ago. Quite some time ago. Let's get it done. Let's get it done as rapidly as we can in fairness to all parties concerned so we can hit the ground running. That's your child.

MR. STARR: With the favor of the chair, I will set up the committee to look into the list and the priority order and the issuance of meters and also the evaluation of the director and staff reports.

CHAIRMAN CRAVALHO: Very good.

MR. FUKUSHIMA: I'm Howard Fukushima. May I also remind the board that there's a proposed rule that has gone out to public hearing which links to the list and procedures in keeping the list and in implementing the list.

MR. STARR: Excuse me, but when we held the public hearing, that rule was not included.

MR. CRADDICK: Howard --

MR. FUKUSHIMA: I'm sorry, I stand corrected.

MR. STARR: I wish what you say is true because right now I feel --

MR. FUKUSHIMA: But there is at this time a proposed rule with this board related to this.

CHAIRMAN CRAVALHO: That's all the rules we submitted for modification and review, and that's in the process, but we got them.

MR. STARR: I don't think there's a proposed rule. I think we should be clear about it. I think there should be one.

MR. FUKUSHIMA: There's been a proposal for a rule related to the list that was at the same time as the appeal process. The appeal process went to public hearing, as I understand it, the rule related to the list --

MR. STARR: Will that rule relating to the list go to the public hearing? I'll take that up with the Operations Committee.

CHAIRMAN CRAVALHO: That's right. There should be no reason for any additional hesitation. We're ready to do business.

MR. HALL: Thank you very much.

CHAIRMAN CRAVALHO: Thank you very much, Mr. Hall. Shall we then proceed with the director's reports? Director's Report 00-43, request approval of East Molokai Watershed Partnership. What's the pleasure of the board?

CHAIRMAN CRAVALHO: Mr. Helm?

MR. HELM: Move to approve Director's Report 00-43, approval of East Molokai Watershed Partnership Fiscal Year 2001 Contract with the Nature Conservancy of Molokai.

CHAIRMAN CRAVALHO: Is there a second?

MR. NOBRIGA: Second.

CHAIRMAN CRAVALHO: Seconded by Mr. Nobriga. A motion was duly made by Mr. Helm and seconded by Mr. Nobriga for the adoption of the agreement. Any discussion? If not, ready for the question? All those in favor say "aye."

(A chorus of ayes.)

Contrary?

(No response.)

Carried.

Director's Report 00-44. The chair would want to refer this to the Finance Committee. So ordered. Director's Report 00-45. Same action, Finance Committee. Director's Report 00-46, request approval of Agreement Concerning withdrawal from the Iao/Waikapu Ditch with Alexander & Baldwin. What's the pleasure of the board? Mr. Starr?

MR. STARR: I have a few questions of staff before I make a recommendation. First of all, do we -- what is the status of the plant up there? Can we use this water if we get it?

MR. CRADDICK: The plant is operational.

MR. STARR: Do we need this water?

MR. CRADDICK: In my estimate, for the trouble that it causes, no. For the 300,000 gallons that they average, there's better places to use that equipment. But that's a choice of the board. We have the agreement --

CHAIRMAN CRAVALHO: May I follow up? What's the recommendation of the director? This communication came from you.

MR. CRADDICK: I think this came out in the MOU;

this was part of one of the things in the MOU and we're following up on all of those items as best we can.

CHAIRMAN CRAVALHO: Mr. Craddick, as the chair recalls, you made reference to this as a result of discussions during quarterly meetings of the board over a period of time as to the necessity of this. That's why the chair has no objection to deferring it. But if it is a mere implementation of a requirement of the MOU, then it is a mechanical process rather than a substantive one. If it is already required in the MOU which was adopted by this board. Does it implement the MOU?

MR. CRADDICK: I believe it does.

MR. STARR: Mr. Chair, I had pushed for the use of this Iao water sometime back because I felt that we spent a lot of money on the plant and it would really help us with the central system. However, the way we're getting it now, the amount is very little and the cost is very high. And the agreement under which we're getting it is very difficult wording. It's not really written in our favor; it's written on the other side's favor. So I would -- I feel it will cost us money to operate the plant and we're not going to be able to process much water and there are times we won't be able to process any water, so I think perhaps we should look into it before implementing.

CHAIRMAN CRAVALHO: The chair has no objection to deferring it. The chair wishes deferred or referred to the Committee of the Whole. No objection? So ordered. The chair would like to parenthetically remind the members of this board that the water itself, as the chair understands, it is for the central area, one utilization or another, and regardless of the cost of this particular amount of water per gallon, per thousand gallons, or whatever the case may be, the net result is, well, it's 5,000 gallons or a hundred thousand gallons or a million gallons. It is a contribution to the water shortage situation in Central Maui, and it is a contribution to the shortage of the amounts available from the Iao aquifer. Yes, it is a costly thing. I think this is a factor we need to look at, but

I think we need to keep our eyes on the target and on the need. There is a shortage. We avoided it. This county has avoided it. This county has no water to discuss it. But it is true that we're pumping 85 percent, approximately, of the amount available and we read and we follow where projects and developments of potentially massive consumptions are being approved in this area. It's going to come home to us. Sooner rather than later. Let's keep these things in mind. That's what, Mr. Starr, you have to be working on in your operations.

MR. STARR: Mr. Chair, I agree. My problem is not that I don't want the water, that we're only getting 300,000 gallons. But can we look at that in the Committee of the Whole or some other committee?

CHAIRMAN CRAVALHO: Absolutely. No problem. You and I think alike in most cases, but not always.

MR. TAKITANI: It may be problematic in that Mr. Tagorda is the chair and he had to recuse himself from the situation.

CHAIRMAN CRAVALHO: We'll handle it at that time.

MR. TAKITANI: One comment. This whole situation of development as additional source for the Central Maui system, and in light of that, there were concessions made by HC&S and Wailuku sugar to allow us to use the flow. And so it's a supplemental source and we agreed that we needed that source, and so part of the MOU, it was consummated as part of it. I think we need to look at that and live up to it as an additional source whenever we can find a source available at a reasonable cost. I share some concerns with Mr. Starr there about the cost, but it is an additional source and we'll face grave situation with the Central Maui aquifer, Iao aquifer, and anyplace we can get additional source, then we need to be looking at and drawing upon it.

CHAIRMAN CRAVALHO: It seems to be a temporary, short-term thing, together with this long-term vision and programming of improvements and what have you. The chair wishes to acknowledge the comments of

Mr. Hall. With respect to what could be an unfair type of a situation. And because a developer or developers may have funding, access to funding, and therefore they are able to proceed with projects and require or ask for preferential treatment or what may be construed as preferential treatment, and the results being the deprivation of others who have been waiting a long, long time. We have got a job. No question, got to do it. It's more costly not to do it. Old Business. Committee Report 99-33. Mr. Niehaus, but Mr. Niehaus is not here. Mr. Craddick?

MR. CRADDICK: He called and said he would not be able to attend today and if it could be deferred.

CHAIRMAN CRAVALHO: No objection? So ordered. Deferred. Okay, Mr. Nobriga?

MR. NOBRIGA: Yes.

CHAIRMAN CRAVALHO: Communication 99-31, from attorney John Rapacz on behalf of the Hoekstra family. What's the pleasure of the board?

MR. NOBRIGA: Chairman, I move we grant waiver of fire protection for the Hoekstras.

CHAIRMAN CRAVALHO: Heard the motion. Is there a second?

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: Second by Mr. Hashimoto. A waiver of the -- the committee report, and the recommendation therein being adopted and the waiver of the requirement. Any discussion?

MR. HOEKSTRA: My attorney is indisposible, Mr. Rapacz cannot be here. However, he did write a memo to the board explaining once again what it is exactly we're after and we want to thank the committee for making the recommendation. We want to make sure that everybody understands what we're talking about. What we're asking for, we have a private water

system and fire protection in place; instead of protecting one lot, that fire protection system now protects three lots. We understand the approval of the committee. The other thing that we ask is that we be able to divide this lot three ways with the existing system that's already in place. I just want to make sure that it's clear.

CHAIRMAN CRAVALHO: Any discussions? We'll go by voice vote or is there a request for a roll call? Voice vote. All in favor of the motion signify by saying "aye."
(A chorus of ayes.)
Opposed?

MR. STARR: Nay.

CHAIRMAN CRAVALHO: Motion is carried. Mr. Starr voted no.
Committee Report 00-02, request of Tom Pierce on behalf of Donald and Mica McCann. Mr. Pierce?

MR. PIERCE: Good morning, Mr. Chair. Tom Pierce on behalf of Donald and Mica McCann. Mr. McCann is present with me today. Mr. Chair, since the last meeting, we have written a letter to you and CC'd a copy to Mr. Nobriga, the chair of the Oversight Committee. And this matter was deferred and additional time because of a general consensus, I believe, that there needed to be some greater clarification of the committee report. We recommended some language. And at this point, I don't know what the Oversight Committee's position is on this.

CHAIRMAN CRAVALHO: What's the pleasure, Mr. Nobriga, the committee wishes to study this more?

MR. NOBRIGA: We still wish to waive the fire protection. But with the question of issuing water meters, we feel on the same pew and the same hymnal as Mr. Hall, that we should follow seniority listing for issuance of meters. We spoke earlier of addressing that in January of 2001 and being that it's real soon in coming, if it's going to come, I would have no objection to deferring this matter.

CHAIRMAN CRAVALHO: Deferred. Any objection?
Mr. Pierce?

MR. PIERCE: Mr. Chair, we have a major problem with getting deferred, only because, as you know, this matter involves a lot of other parties and it has been involved in litigation, and our ability to get water will help resolve a lot of those issues. The trial has been moved into next year; however, we are pressed up against certain deadlines such as discovery. So deferring it into the new year is a problem for us.

CHAIRMAN CRAVALHO: With respect to the lawsuit you made reference to, is it a lawsuit against the county?

MR. PIERCE: No.

CHAIRMAN CRAVALHO: Private parties?

MR. PIERCE: Yes, private parties.

CHAIRMAN CRAVALHO: All the more reason.

MR. PIERCE: Is it my understanding that the board and the committee would be in a better position to pass judgment on the water meter in the new year? Because the staff report was very clear that family subdivision agreements that were signed prior to, I believe, 1993, as this one was, are entitled to a water meter upon having the proper subdivision requirements met.

And so the Oversight Committee is stating that they don't have a problem with the private fire system that we're proposing. So it would appear that we meet this grandfather clause. And I think Mr. Hall's concern was more with a large developer that's coming in and possibly taking hundreds of water meters.

CHAIRMAN CRAVALHO: That may be Mr. Hall's concern and your interpretation of Mr. Hall's concern. The chair's concern is that no new water meters be given before the year 2001, to make assurances that everybody gets treated equally. Emphasis on "new." New.

MR. PIERCE: Would it be possible to -- the proposal we had in here was no meters shall be issued until the

moratorium, in fact. Would it be possible to change that to no meter shall be issued until --

CHAIRMAN CRAVALHO: Until the board approves.

MR. PIERCE: In other words, we're going to need board approval, there's no way to --

CHAIRMAN CRAVALHO: Sure.

MR. PIERCE: And to defer the issue -- I guess what I'm asking, would it be possible to defer the issuance of the water meter?

CHAIRMAN CRAVALHO: The chair is well aware, and Mr. Pierce, you should be well aware of the wiggle-waggles that have taken place in the past as it relates to the granting of water meters and how justifications have been manufactured to justify the actions of the department. And when those actions have been challenged in court and otherwise, this board has been asked to appropriate monies to go and defend the varied decisions of people in the administration who did not follow the decisions of the board. That's a matter of record. It's the chair's opinion and the chair's recollection that you have the distinct distinction of representing a client who has been injured in that particular manner. So if the chair is very sensitive and gun-shy, you should be able to understand it.

MR. PIERCE: With that in mind, Mr. Chair, perhaps I if I could make a suggestion then, would it be possible to bifurcate this where the board goes ahead and makes a decision on a private water system or private fire protection system and we defer judgement as to the second prong, which is the water meter issue?

CHAIRMAN CRAVALHO: What's the pleasure of the board?

MR. STARR: Mr. Chair, I feel that we should look into this subject all at one time, as we discussed it last meeting, and really decide whether the board wants to be in the business of fire protection and agricultural areas rather than just dealing with one or two wiggle-waggles.

CHAIRMAN CRAVALHO: What's the pleasure?

MR. NOBRIGA: I move that we do approve the waiver of fire protection for Mr. McCann.

CHAIRMAN CRAVALHO: Is there a second to the motion?

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: You heard the motion made and seconded. In other words, we divide the question into two parts (a) the motion deals specifically with the fire protection waiver. The question of the meter is deferred; no action on that question. Any discussion? Mr. Nakamura?

MR. NAKAMURA: One quick question. David, this subdivision did, in fact, have a deferral of improvements based upon a family subdivision improvement in the past; is that correct?

MR. CRADDICK: That's correct.

MR. NAKAMURA: My comment, Mr. Chairman, is I personally have a problem with these -- what I consider to be creeping approvals. I think my action will be in that light.

CHAIRMAN CRAVALHO: You heard the motion duly made and seconded, together with the comments. Is there a request for a roll call then or just a voice vote?

MR. TAKITANI: Request a vote.

CHAIRMAN CRAVALHO: A roll call has been asked for. Ms. Nago, you want to start from this side or that side? Either way.

MS. NAGO: Howard Nakamura.

MR. NAKAMURA: No.

MS. NAGO: Robert Takitani.

MR. TAKITANI: No.

MS. NAGO: Adolf Helm.

MR. HELM: No.

MS. NAGO: Jonathan Starr.

MR. STARR: No.

MR. NOBRIGA: Mike Nobriga.

MR. NOBRIGA: Aye.

MS. NAGO: Clark Hashimoto.

MR. HASHIMOTO: Aye.

CHAIRMAN CRAVALHO: Are you going to ask the chair?

MS. NAGO: Elmer Cravalho.

CHAIRMAN CRAVALHO: No.

May the record reflect that the chair has voted no for the possibility of moving for reconsideration at some subsequent date. I'm voting in the majority. Shall we proceed to the next item? The Smith development. Mr. Craddick?

MR. CRADDICK: May I get clarification. That was a "no" on just the amendment to separate the two items?

CHAIRMAN CRAVALHO: No, no.

MR. NOBRIGA: It was "no" for the waiver of fire protection?

CHAIRMAN CRAVALHO: It was a "no" on the waiver.

MR. CRADDICK: I wanted to get it clear.

CHAIRMAN CRAVALHO: That was the motion. Now we refer to the Smith Development for dedication

of a well. This is a subject matter that Mr. Hall spoke on, Mr. Smith, I believe?

MR. SMITH: Yes.

CHAIRMAN CRAVALHO: The matter is coming before the board, the chair would like to indicate at this time its intention and it shall be the action of the chair to refer this to the appropriate committee to delve into the various questions that have come about. Mr. Smith?

MR. SMITH: I would like to -- I have no objection to the deferral. But I would like to make some, I think, important clarifications. And that is that there is nothing in any of my correspondence relative to the proposal or any inference in the proposal, and frankly, until Mr. Hall spoke today, I had not contemplated of jumping to the top of the list.

We had merely used the compensation for the well in the form of credits for future meters as a way for the board to acquire this well, which is in concert with the goals of the strategic plan, which we thought was a win-win for everybody by virtue of credits for our future use by my company. We're not going anyplace and we have no intention of asking to be put at the top of the list. I want to make that very clear to the board.

We think that the idea of participating and dedicating a well at a discounted price via the dollar amount of credits that we requested is supporting the goals of this strategic plan and the board and the chair and other members, in trying to alleviate the shortage problems that not only exist in the central valley but Upcountry as well.

We just stand ready to work with the board and if this makes sense to the board, and we thought it did because it's in close proximity to the brand-new tank.

And also, frankly, because in consultation with the board's consultant he indicated, who happened to be by chance on site prior to the consideration of this going to the board when he was doing some of his research for the board and asked to see the well, he indicated, gee, this would be a great addition to the county system. And he said I wish it was bigger. That was the only thing he said.

It is not larger than the needs for the subdivision,

but it would certainly meet the 20 percent additional criteria that Mr. Starr has discussed. Therefore, we frankly see it as a win-win between ourselves and the county and we're willing to work along those lines and at whatever pace the board sees fit. Thank you.

CHAIRMAN CRAVALHO: Thank you. The chair would have this referred to the entire board so that when we meet with our consultant in the month of December this can be an item that we can bring into discussion.

MR. SMITH: I would be happy to help you.

CHAIRMAN CRAVALHO: Thank you.

MR. SMITH: Thank you.

CHAIRMAN CRAVALHO: Shall we then proceed to the next item? Request from Sandy Daniells for relocation of a water meter. This deals, I believe, with -- the communication has come in for Mr. Craddick. The chair would like to refer this to the Rules Committee. So ordered.
Communication from Attorney Victor M. Sher regarding potential litigation. Director's 00-40. What's the pleasure of the board? Mr. Craddick?

MR. FUKUSHIMA: If I may.

CHAIRMAN CRAVALHO: Yes, Mr. Fukushima.

MR. FUKUSHIMA: At this time I would like to request the deferral of this item to the end of the agenda.

CHAIRMAN CRAVALHO: So ordered if there's no Committee reports. Strategic Planning Committee.
Mr. Nakamura?

MR. NAKAMURA: Mr. Chairman, I move for the adoption for the committee report and the approval of the strategic plan (Mission statement, vision, values, goals and objectives), and that staff prepare an action plan for review and approval by the board to include appropriate public review.

CHAIRMAN CRAVALHO: Is there a second?

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: You heard the motion duly made and seconded for the adoption of the committee report and all the recommendations. Seconded by Mr. Hashimoto. Are you ready for the question? All those in favor say "aye."

(A chorus of ayes.)

Contrary?

(No response.)

Carried.

Proposal from administration. Communications 00-50. Finance Committee. That's for the purchase of the floor. Other Business, discussion/possible action regarding settlement authorization of claims and lawsuits, Basil Milan vs. David Craddick.

MR. FUKUSHIMA: If I may, Mr. Chairman. The attorney from our office who was handling this matter is indisposed and he is requesting a deferral on this matter.

CHAIRMAN CRAVALHO: If there's no objections, deferred.

MR. STARR: Mr. Chairman?

CHAIRMAN CRAVALHO: Yes, Mr. Starr.

MR. STARR: I was slow off the mark here on the previous communication.

CHAIRMAN CRAVALHO: Which one?

MR. STARR: The one about the proposal from the administration. May I ask a question relating to that?

CHAIRMAN CRAVALHO: We shouldn't, but for you today, and I say today --

MR. NOBRIGA: Only today.

MR. STARR: Are any of the committees examining

potential new locations?

CHAIRMAN CRAVALHO: This would be within the scope of your Finance Committee, and the chair is aware that you have been religiously meticulous in attending the meetings of the Finance Committee. So I'm sure that Mr. Rice will give you appropriate attention and will be looking at a whole variety of places.

MR. STARR: The Finance Committee.

CHAIRMAN CRAVALHO: Mr. Rice's committee, the Finance Committee.

MR. STARR: I do enjoy them.

CHAIRMAN CRAVALHO: They are good, and I'm sure all of your contributions have been properly noted and appreciated for the depth of the considerations and presentations.

MR. STARR: Yes, sir.

CHAIRMAN CRAVALHO: And has been given due accord and due recognition. Shall we go on to the next matter? Iao aquifer data. Mr. Craddick? Staff?

MS. NAGO: David, have her sit here, otherwise we're not going to pick it up.

MS. KRAFTSOW: I did not really have anything further to add to it. I think the gist of it is that the transition zone is continuing to rise. Are there any questions or comments?

CHAIRMAN CRAVALHO: There are none. So ordered. Mr. Starr?

MR. STARR: I would like to read into the minutes and make sure that all the board members are aware that although we have reduced pumping in the Iao aquifer to the kind of levels that we would like to see, we're still seeing the transition zone, where the salt meets the freshwater, is rising

and the water levels are still dropping, which means it looks like Iao has not reached equilibrium yet but it's still a negative downward trend.

MS. KRAFTSOW: One other thing is it's also true that the rainfall has continued below average. So it may have some --

CHAIRMAN CRAVALHO: How long does it take for the benefits of the rainfall to become an apparent percolation period, if any?

MS. KRAFTSOW: Apparently it varies a lot from aquifer to aquifer, and I couldn't say what the time is for Iao. I'm not sure if the USGSA knows.

CHAIRMAN CRAVALHO: Approximately: a day, a week, a month, a year?

MS. KRAFTSOW: It can vary from a few days to ten, depending on the aquifer, on the years.

CHAIRMAN CRAVALHO: With specific reference to the Iao aquifer, is there any data?

MS. KRAFTSOW: I could not answer that question. I can look and see.

CHAIRMAN CRAVALHO: Any other questions?
Mr. Craddick?

MR. CRADDICK: Can I get your attention to page 133?

CHAIRMAN CRAVALHO: Depends on what you want to talk about.

MR. CRADDICK: Casual observation here. Let's take the Waiehu deep monitor well, which is the third one down on page 133. If you notice the low point of every year, how far it goes down, you notice last year was extra low. It was extra dry. This year here it started raining in about July. Keep in mind that's September. You can see that it looks like it's already stopped going down for the year.

So if in December we see that rising or continuing to rise, which it looks like almost all of these wells are doing here, we're going to have -- see a year where the low point is not as low as the previous year. So that indicates to me that there's a quicker recovery, which is in keeping with the aquifer test that we did with John Mink.

CHAIRMAN CRAVALHO: Provided, however, that at the end of the rise, you have come back to where it started from, so even though you do have a rise, it isn't enough to increase your reserve that much.

MR. CRADDICK: That's true.

CHAIRMAN CRAVALHO: It's like a person who is losing a thousand bucks a day, and he says he stemmed his loss because he is only losing 900 now.

The concern I think that this board has had, I think Mr. Craddick has had, for an adequate continuous supply is very valid. We got to look at it and bring it to question -- the chair has indicated and discussed the cost. What are we talking about? This long-term need that has to be met and the cost therefore. We are rising but we have not reached heaven yet.

MR. TAKITANI: Do you have any idea what outstanding commitment or value is as to the outstanding permit request, as to how many gallons would that equate to, as far as outstanding?

MS. KRAFTSOW: I think it's in your staff reports right now.

MR. TAKITANI: Tell me how much.

MS. KRAFTSOW: It comes up to about a third of a million gallons.

MR. STARR: In other words, equal to the Iao stream. Could I take that one step further? I see we have --

CHAIRMAN CRAVALHO: I said only one time for you, but for you --

MR. STARR: Pretty please.

CHAIRMAN CRAVALHO: For you.

MR. STARR: I see we have the planning director here. I was wondering if he has any way of giving us an idea of how many housing units or meter units we're looking toward regarding development for which permits have been issued in South Maui, in Central Maui.

MR. MIN: I don't have that information with me. We can put it together for the board.

MR. STARR: I would like to see that. I know it will be rough, but to give us some idea of whether we're looking at hundreds, thousands, millions or what.

MR. MIN: Sure.

CHAIRMAN CRAVALHO: Any other questions of the subject matter? If not, shall we proceed to the next item on the agenda?

MS. KRAFTSOW: May I make one little clarification?

CHAIRMAN CRAVALHO: Yes, ma'am.

MS. KRAFTSOW: The question that Mr. Takitani asked. Actually, that's just water reservations that have been accepted. Because when we answer the Planning Department about permits, we tell them no guarantee of water is granted or implied. The number I'm giving you is outstanding reservations for water, but in terms of -- represented by permits and approvals, it would be high.

MR. TAKITANI: Do you have any idea?

MS. KRAFTSOW: We can put it together for you. I would hesitate to -- there are some large developments out there like Wailea 670, but we do kind of estimate -- there have been no commitments of water yet, but we do estimate with each review, what each thing would use. So we can go back and put

together a back count. But it would take awhile.

CHAIRMAN CRAVALHO: Let me see if I understand you completely. Projects that may have been approved but without any water commitments. Would that be a correct statement for me to make?

MS. KRAFTSOW: I think so. The water is not considered guaranteed until they actually applied or received a meter.

CHAIRMAN CRAVALHO: Building permits may have been granted?

MS. KRAFTSOW: Discretionary permits.

CHAIRMAN CRAVALHO: To your knowledge, has there been representation from the department into the meetings of the Planning Commission or Planning Department?

MS. KRAFTSOW: We put this information in our letters and we make ourselves available for when they request them.

CHAIRMAN CRAVALHO: Has the department and/or staff expressed any kind of concerns with respect to any projects that have been planned or requests have been made for approval?

MS. KRAFTSOW: Yeah, depending upon how far back you go, how stridently those concerns were expressed.

CHAIRMAN CRAVALHO: Just say 12 months.

MS. KRAFTSOW: We typically express concern, but what we found is that for a while it seemed more effective -- well, the last 12 months can be explained by going further back than the last 12 months.

But for a while we actually started recommending, and this was more Upcountry, but also with the shortage in Central Maui when the sustainable yield issue was raised with the commission, we started recommending denials, and it wasn't really paid attention to at the time. So we tried another

tactic which was, okay, we'll give you an estimate of how much water we expect the permit would use.

We have been doing that consistently for years now, so that you guys are the land use decision makers, here is how much water it will take, you decide what is acceptable.

CHAIRMAN CRAVALHO: In your judgment, do we have enough water to meet the potential consumption demand for all projects that have already been approved?

MS. KRAFTSOW: I don't think -- okay. If you are talking about everything that was approved for the community plan level --

CHAIRMAN CRAVALHO: No, no, the Planning Department and/or land use or whatever else. Here is the green light, go.

MR. CRADDICK: The answer is no.

CHAIRMAN CRAVALHO: Do we have enough water?

MR. CRADDICK: The answer is no.

MS. KRAFTSOW: I was going to break it down by this level, this level, this level, but basically he's right. The answer is no.

CHAIRMAN CRAVALHO: That's all I needed to know. Any other matter to come before the board? Mr. Nobriga?

MR. NOBRIGA: Are we going to revisit Communication 00-04?

CHAIRMAN CRAVALHO: It was placed at the end. 00-40, Mr. Fukushima.

MR. FUKUSHIMA: This is a request from Vic Sher who is a partner in a firm that handled the DBCP lawsuit for the board. He has requested that this matter be discussed in executive session. It's relating to a potential conflict between a client for a party that he was talking -- that his firm is talking to of possible representation of a conflict

with his representation to the board in the DBCP lawsuit.

CHAIRMAN CRAVALHO: The chair is going to suggest or recommend that this goes to the Committee of the Whole, because the chair has an aversion to executive sessions. And at that time -- the Committee of the Whole, we have a different person presiding. That's the way. That is the way.

MR. FUKUSHIMA: So the chair is referring this --

CHAIRMAN CRAVALHO: To the Committee of the Whole.

MR. FUKUSHIMA: No problem.

MR. STARR: Mr. Chair, before we go, one last thing. I'll be holding some meetings in my committee in the next month and I would like to have a court stenographer at those meetings. I know we had the matter before the board, and if we go before the Finance Committee --

CHAIRMAN CRAVALHO: Goes before the Finance Committee.

MR. STARR: It did go before the finance and they said it could be handled out of the budget without any --

CHAIRMAN CRAVALHO: Then there should be absolutely no problem. There should be no problem.

MR. STARR: I would make it clear, I would like to have a stenographer at the meeting.

CHAIRMAN CRAVALHO: There are many things all of us would like to have. I'm sure Mr. Gore would like to be proclaimed president, so would Mr. Bush, and so would Mr. Starr, but we don't get all of our wishes, but I agree with you.

MR. STARR: Thank you.

CHAIRMAN CRAVALHO: No problem. If there are no objections, meeting will be adjourned. Mr. Craddick will contact our consultants to see if they would be available for

our next board meeting. Mr. Deputy Director?

MR. TENGAN: I would like to make a short report on Iliahi Nauwe from Molokai.

CHAIRMAN CRAVALHO: Speak.

MR. TENGAN: The board director needs to follow up on this project.

CHAIRMAN CRAVALHO: Okay.

MR. TENGAN: I'm sorry I don't have a written report, but I made copies of the communications from corp counsel to the bonding company. Basically after the board assigned the task to me, I went out to Molokai to look at the project area and it's my determination that the work has to be done on it, on the project.

I guess the problem now is how do we get the bonding company to honor the bond and proceed with the corrections. I also wrote a letter to the bonding company; I did not get any response. We have had telephone contacts with the bonding company; we did not get any responses to that too. And now we have a letter from corp counsel with a copy going to the Department of Commerce and Consumer Affairs and also to Wayne Metcalf, the insurance commissioner for the state. Hopefully we can get some kind of reaction from the bonding company. If we don't, based on his letter from corp counsel, there's a deadline of December 4th and at that time I guess you would have to formulate some kind of recommendation to the board as to what action you should take.

CHAIRMAN CRAVALHO: Mr. Starr?

MR. STARR: If my memory serves me well, I thought the board had acted to get it fixed if we could not get an immediate response. I do hope that no more time is wasted and when December 4th rolls around that some kind of action is taken, not to look at more legal action but to get the road fixed for the -- the people over there are suffering.

CHAIRMAN CRAVALHO: The chair's recollection is precisely what you did make reference to, and that the efforts

and the involvement of the department was to get the project completed and it was not contingent upon the reaction of the bonding company. The reaction of the bonding company, whether we collect from them or whether we don't, that was not the deciding factor as to whether this work should go ahead. Mr. Craddick, if you get the department, that's the understanding of the chair, that, hey, let's do it. We collect after, if necessary, but let's not make this thing contingent. What if the bonding company does not take action for the next ten years, both you and I will be gone. Okay? No objection? So ordered.

Happy Thanksgiving to everybody. We'll see you in time.

(The deposition concluded at 10:00 a.m.)

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[\[Back\]](#)