

County of Maui Water  
Supply

BOARD OF WATER SUPPLY  
COUNTY OF MAUI  
REGULAR MEETING

Taken at the HGEA Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 207, Wailuku, Maui, Hawaii, commencing at 9:00 a.m., on February 22, 2001.

REPORTED BY: JEANNETTE W. IWADO, RPR/CSR #135

IWADO COURT REPORTERS, INC.

A T T E N D A N C E

CHAIRPERSON: ELMER CRAVALHO

BOARD MEMBERS: CLARK HASHIMOTO

ADOLPH HELM

HOWARD NAKAMURA

MICHAEL NOBRIGA

PETER RICE

JONATHAN STARR

ORLANDO TAGORDA

ROBERT TAKITANI

DIRECTOR

DAVID CRADDICK

DEPUTY DIRECTOR

GEORGE TENGAN

DEPUTY CORPORATION COUNSEL:

J.D. KIM

BOARD SECRETARY:

FRAN NAGO

FISCAL OFFICER:

MICHAEL QUINN

ENGINEERING:

HERBERT KOGASAKA

TRANSCRIPT OF PROCEEDINGS

BOARD OF WATER SUPPLY

REGULAR MEETING

FEBRUARY 22, 2001, 9:00 A.M.

CHAIRMAN CRAVALHO: The regular meeting of the Board of Water Supply of the County of Maui will come to order. Miss Nago, would you check the presence here of the members and introduce the members of the public who are here?

MS. NAGO: We have Chair Elmer Cravalho, Board members Clark Hashimoto, Peter Rice, Michael Nobriga, Jonathan Starr, Orlando Tagorda, Adolph Helm, and we have Howard Nakamura. From staff we have Director David Craddick, we have Deputy Corporation Counsel J.D. Kim, we have fiscal officer Mike Quinn. And then in the audience we have Dan Grantham, we have Ron and Dawna Richmond, Deborah Maples, Peter Stolle, Bill Wooster, Carl Friedman, Danny Mateo, Jack Naiditch, Anthony Amaral, Chris Bernard, Mary Blane Johnson. We have George Tengan and Herb Kogasaka from staff.

CHAIRMAN CRAVALHO: May the record reflect the people who are present as well as the members of the Board, that constitute a quorum. Minutes to come before the Board for the meeting of December 28 and January 25, the year 2001. What is the pleasure of the Board?

MR. RICE: Mr. Chairman, I move that they be accepted and maintained for the appropriate time for review.

CHAIRMAN CRAVALHO: Is there a second?

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: It has been moved and seconded for the acceptance of the minutes. It shall be kept on record for the established number of days, to wit, 30. If there are no corrections, it shall stand approved as read.

Mr. Starr, I believe you have an observation for a correction or a clarification of the minutes, maybe typographical in error. Proceed, please.

MR. STARR: Yes, Mr. Chair, I have something on page 45 which I believe was incorrectly stated in the minutes on line 23, I believe. The word "not" should be inserted between the word "will" and the word "be." And I would like to get clarification from Mr. Mink (phonetic), who we are quoting in this portion of the minutes, as to whether that was indeed what he said. But my memory is that I clearly recall him saying that it will not be affected, rather than it will be, as is written in the minutes.

CHAIRMAN CRAVALHO: May the record reflect the statement and the concern expressed by a member of the Board. Will staff make sure that we contact Mr. Mink for the appropriate clarification, if any, of his remarks at that particular meeting?

Mr. Rice, will that be acceptable?

MR. RICE: Certainly.

CHAIRMAN CRAVALHO: You have heard then the motion for the acceptance with these conditions. Are there any further discussions? If not, are you ready for the question? All in favor say "aye."

(A chorus of ayes).

Contrary?

(No response).

Carried. The next item on the agenda, testimony from the public. Are there any members of the public who wish to testify or to offer any information to this Board at this time? If you do so, you will not be precluding entering into a discussion at a later time if the subject matter does come up. But you do have an opportunity now to discuss any matter which may or may not be on the agenda. Any discussion? If not, shall we then proceed to the agenda.

Item number five on the agenda, Director's Report 01-01. It is requesting funds, for the appropriation of funds for the construction of Ainakula Road/Haleakala Highway, Highway Waterline Replacement Project.

MR. CRADDICK: Yes. Both these Director's Reports are for CIP projects, so if you want to handle them.

CHAIRMAN CRAVALHO: The Chair is kind of aware of that, and the Chair appreciates all the help it gets from you from time to time. These are requests for appropriations. The Chair has a question. Are these in the current budget?

MR. CRADDICK: Yes.

CHAIRMAN CRAVALHO: In the current budget that has been approved by the committee?

MR. CRADDICK: Well, it's a lump sum amount. It's not been approved by the committee.

CHAIRMAN CRAVALHO: The request then is to proceed

to divide the lump sum amount that has been appropriated?

MR. CRADDICK: Right.

CHAIRMAN CRAVALHO: Mr. Quinn?

MR. QUINN: Mr. Chair, they are within the original appropriation numbers approved by the Board.

CHAIRMAN CRAVALHO: There will be a joint referral to the Committee on Capital Improvements and Finance for the appropriate action on both communications. That's Communication one and Communication two.

Shall we then proceed to item number six on the agenda, Communication 01-04 for Michael Conway for a waiver of the fire flow requirements. Is Mr. Conway here, or a representative here? If there are none, referred to staff to report back to the full Board of Water Supply.

Communication 01-05 for Mr. Anthony Amaral, Sr., for a water meter for their agricultural land located on Waiakoa Road, Kula. Any discussions or presentations or requests to be made of the Board at this time? If not --

MR. AMARAL: Excuse me, sir.

CHAIRMAN CRAVALHO: Yes, come up, please. You can say anything you wish to.

MS. NAGO: Mr. Amaral, I'm sorry, could you come up here to speak?

MR. AMARAL: Right now they have a private system up there to carry up there. They have a water tank, a 30,000 gallon water tank just below my property and my neighbor's property, which is Brown. I went to talk to this guy David Craddick. First, I talked to McArthur, you know, which they was very helpful. They tried to help me what they could, but they have rules and regulations that must be followed, and I was referred to the Council, and that's why I'm here.

So my idea was because no more meters can be hooked up to that system, what I was told -- first of all, Dave

Craddick told me that I would have to run -- if I want a meter, he told me if I run an eight-inch water line all the way up to one fire hydrant and all that, and it's just not feasible for me. I'm by myself up there. My grandchildren is raising some 4-H stuff, like that.

And anyway, I talked to my neighbors and I guess they talked to the Water Board. And in order to like join the association, to be part of that group, which is not feasible, because there's not enough fire protection on that 30,000 gallon tank. But I guess somewhere along the line somebody didn't do their homework, because in reality, Mr. Brown has another 30,000 gallon tank above that tank. Because right now with the existing, where the existing tank is, his house is higher and his farm land is higher than that whole area right there.

So what he did, he took upon himself to his own expense, pumped water up to that tank and let everything backflow down to his home and for feed his cows and whatever animals he got, whatever he use the water for. My idea was that I was willing and it was affordable to me and my family that I put another 30,000 gallon tank on my property, which I have an 8,000 gallon tank now that I paid big money to have water hauled up there.

So then what I propose to the Board was, you know, if that would be all right, where somehow we could on that same line coming back feeding to that original tank, make a bypass line to feed that tank in case if there's an emergency. That would be one of my options that would be affordable for me.

The second option would be, and in my mind it doesn't make any sense, because I would have to go put up my own system by myself, put one tank over there, then pump water up to my place, then I would be by myself. An association, the more members you have, you know, it's feasible to people like me to afford and do what we have to do. So that's about it. This is my own personal feelings that what can be done in that area, and that's about all I have to say.

CHAIRMAN CRAVALHO: Are there any questions? It is the Chair's understanding that reference is being made to an existing private water system.

MR. AMARAL: Yeah.

CHAIRMAN CRAVALHO: And the request is for the Board of Water Supply to approve a connection to that private water system to make possible for your properties.

MR. AMARAL: Right now, you know, I had a meeting a couple of weeks ago, last week, or whatever, with these people. And right now it's not feasible to do that because the simple reason is, and I can understand where they're coming from, that that amount, that 30,000 gallon tank right now that the association owns, it's not, you know, any more people hooking up to that system wouldn't be approved. In other words, they wouldn't have enough fire protection.

So what I was thinking of, me and the Doctor, he would be with me, you know, he has a tank already. I go put up one other tank. And the line that we're pumping water up to the tanks, what we do is we just make one bypass line over. And probably I would have to give the Fire Department, I talked to the fire station, and they would go with that providing that, you know, they would have a key or something. I really don't know how the thing works, this is only my idea. I don't know if I'm sounding right or what, you know. I'm just trying my best for do what I've got to do.

CHAIRMAN CRAVALHO: It's fraught with great problems. It's the Chair's recollection that there is a request pending before this body by the owners of that private water system, that they want to convert for the County to take over. And there are a number of potential legal problems involved. So perhaps it might be the best thing to look at that particular problem which is before this body, in connection with the request of Mr. Amaral, and have the Corporation Counsel's office work very carefully on it, so that if there are any legal problems that they are fully met. If there are no objections, so ordered. And we'll follow through, Mr. Amaral.

MR. AMARAL: Thank you.

CHAIRMAN CRAVALHO: So we're making reference, you see, Mr. Amaral, to Russia after the revolution. So you will have a chance to have a hearing. Thank you.

Mr. Amaral had a comment earlier to me that he thought he was going to be brought before a commission of Russia, but it's Russia post-revolution.

MR. AMARAL: Gestapo, feels like that.

CHAIRMAN CRAVALHO: Shall we go onto the next one, request from Council Chair Patrick Kawano for the Board to schedule a public hearing on Molokai regarding the fluoridation. The question of fluoridation had been sent to the Committee of the Whole. The Chair would like to request that this particular matter and request be handled through Mr. Tagorda, and to proceed expeditiously to schedule a meeting together with a representative from Molokai. And then we should have this meeting during the month of March the year 2001. Okay?

MR. TAGORDA: Yes.

CHAIRMAN CRAVALHO: If we don't say 2001, maybe it will be March ten years. Shall we go onto the next one, request from Larry Fukunaga of Sandwich Isles Communications for a water meter. Referred to the staff and to the administration for implementation in conformity with Mr. Craddick's most recent announcement of a change of heart in the granting of meters and et cetera. So we're making progress along the line.

MR. TAGORDA: Mr. Cravalho?

CHAIRMAN CRAVALHO: Mr. Tagorda.

MR. TAGORDA: I'd just like to clarify some points here. Are we going to provide these people meters?

CHAIRMAN CRAVALHO: That's why we're referring it to staff for Mr. Craddick to report back to us.

MR. TAGORDA: All right.

CHAIRMAN CRAVALHO: The Chair understands that this

particular matter deals with water and servicing of the Hawaiian Homes project, which raises questions as to priorities of the use of water. Shall we go then to committee reports Oversight Committee. Everything for you, Mr. Nobriga.

MR. NOBRIGA: Mr. Chairman, Communication 00-52 requests upon behalf of William S. Worcester to defer this matter until Mr. Worcester returns from his trip, and we can talk to him about some improvements that we think are within his budget. We will be scheduling another Oversight Committee report with communication 01-01, request waiver on behalf of Peter Yacooshin. This matter is within the confines of our Easy Street decision, and our committee recommends denial of the request. I so move.

CHAIRMAN CRAVALHO: You have heard the motion.

MR. HASHIMOTO: Second.

CHAIRMAN CRAVALHO: For the denial of the request of Mary Blane Johnson as it relates to the request on behalf of Peter Yacooshin for a waiver of the Department's requirements. Any discussion? Yes, ma'am?

MS. JOHNSTON: My name is Mary Blane Johnston, I'm the attorney for Peter Yacooshin, who is the Petitioner in this matter, and I would like just very briefly --

CHAIRMAN CRAVALHO: Ma'am, just as a matter of clarification, or procedurally, the pending motion is for the denial, so whatever testimony you have will have to deal with the pending motion as to whether we should deny or adopt the committee report or not. So let us confine ourselves to the subject matter before this Board.

MS. JOHNSTON: Yes, Mr. Cravalho. The subcommittee has recommended denial of the petition, the request by Mr. Yacooshin for a waiver of the requirements that a larger or new water meter be installed before he can have approval from the Water Department for a building permit. And second, that the fire protection is inadequate.

We appeared at the time that the committee met and

spoke, and I would like to just very briefly, for the purposes of the whole Board, explain what I saw happening at that meeting and why I believe that even though the committee voted to deny the request I would ask the full Board to hear it.

CHAIRMAN CRAVALHO: Ma'am, I think you are quite familiar with appropriate procedure. We do not go behind the committee report. The committee report is inclusive. The motion is very exclusive and very specific. What took place or didn't take place at the committee report or at the committee hearing is not before this body. What's before this body is the content of the committee report for which there is a motion. So please limit yourself to these discussions.

MS. JOHNSTON: Yes, but I believe that in order to address my comments --

CHAIRMAN CRAVALHO: Ma'am, the Chair then reluctantly, very reluctantly, would have to rule you out of order. It's no different than the court procedures. So let's follow them.

MS. JOHNSTON: Perhaps it's just my style that the Chairman is not recognizing. We asked that the full Board not follow the committee recommendation to deny the petition on the following basis: One, one of the bases that was discussed was whether or not there would be adequate water if Mr. Yacooshin's building permit is signed off. What is pointed out is that since 1994, Mr. Yacooshin has had a shed and has had the toilet, sink and shower, has been up and running since that time. In other words, what is being requested is not any kind of additional water use that hasn't already existed since 1994. So there is no problem, the service has been adequate even though, according to the Department's recommendation, the gallons permitted exceed the capacity of the existing water line. The recommendation also of the Water Department is even when the Easy Street parcels are removed from this line, the water flow is still going to exceed that which is allowable by the existing water meter. Easy Street is making plans to remove themselves from this meter on this particular lot. One of the concerns raised was about Mr. Yacooshin and this lot, lot four's participation in those

efforts. Since the committee meeting I have spoken with Mr. Isaacson, who is spearheading the Easy Street project, and I have learned that in fact this lot has contributed the amount of money that they have been requested to towards that project.

At the time of the committee meeting Mr. Craddick raised this as an issue, as to whether or not my client was participating in that, and there is in the recommendation of the Department before this Board a statement to the effect that Mr. Yacooshin is not participating. That is incorrect. The money was advanced, unbeknowns to us, by Dorvin Leis for three of the hui members. That will be taken care of by my client to reimburse Mr. Leis.

The second issue has to do with the recommendation that the fire protection is inadequate. In the past when Mr. Pollack and Mr. Koshiver (phonetic), who are also hui members, came before this very same board, waivers of the fire protection, waiver of liability was obtained in order to permit them to obtain building permits on the same kind of request we are making here. And I'd like to point out that one of the considerations that was made at the time that Mr. Koshiver applied for a relief from the same requirements that the water department is imposing on Mr. Yacooshin is that the consideration of the Board should be, it says the Board may decide to waiver the subdivision water system improvements if the public is properly served, without full and strict compliance with the rules and regulations. I think it's already proven that the water is adequate there, even though on paper, and according to the regulations that the Department has to enforce, it appears that the water meter is not sufficient.

One other concern that was raised was whether or not by granting Mr. Yacooshin a waiver, that would sort of open the doors to other people coming in. This is contained in the recommendation of the Water Department. If this Board -- and I hope that they will grant our petition for a waiver of the requirements. I don't believe that people are going to say, "Oh, they granted it in Mr. Yacooshin's case, so we're going to come before the Board." Neither do I think that if the Board denies it that that's going to keep other people from coming before the Board. There are other people that have appeared on the committee and people have problems, and until the water situation is solved Upcountry people are going to continue to come to the Board with requests for relief from the strict regulations.

In my profession, law, there are rules that have to be enforced, but the law also provides for equity, which is there are certain circumstances when a court will find that in the best interest of justice to waive those rules, and that's what we're asking here. At the time of the committee meeting Mr. Tagorda raised an issue as to whether Mr. Yacooshin was trying to somehow go around the rules and regulations of the subdivision requirements that he finds himself in by virtue of the fact that there's a structure on this property. In fact, I'm here today because your rules provide for me to be here and make this request, just as many people before me and probably many people after me will be here asking for this same request.

Mr. Yacooshin has complied with all of the Land Use and Codes, we've worked for two-and-a-half years. He's paid the park assessment fee, we've gotten clearance through the State Historic district office, he's complied with the Health Department requirements. In the time we've been working there are no longer fire protection requirements, that's come and gone. He's had to pay to reinstate the partnership that owns the property. It was dissolved because the partnership failed to keep it in effect. He's taken numerous steps. He's doing everything he can to comply with the rules to get a permit to legalize his structure so he can live in it. It's a \$5,000 improvement. It will take no further water usage than that which he's already been using since 1994. I would respectfully request that the Board, notwithstanding the committee's recommendation, grant the request for a waiver from these two conditions.

My client is willing to sign whatever necessary waiver of liability, as was done before by Mr. Koshiver and Mr. Pollack. Thank you.

CHAIRMAN CRAVALHO: Any further discussions or questions? The Chair would like to again repeat the status. The motion is to deny, so before the committee would be able to act on a motion to approve, it would have to disapprove the motion to deny first. So the motion before the body at this time is to deny the request. Is that clear? Are you ready for the question? All in favor of the motion shall say "aye."

(A chorus of ayes).

Opposed?

(No response).

Carried. The motion is carried, the request is denied. Shall we proceed then to the next item. Mr. Nobriga, please.

MR. NOBRIGA: Thank you, Mr. Chairman. On the matter of Communication 01-02, request for a waiver of subdivision requirements for 2-8-003:020 on behalf of Ron and Donna Richmond, the committee has asked for a formal interpretation from the Corporation Counsel's office. I received that just as you were calling the meeting to order. I'd like to defer action on this until we can restudy what is contained in the Corporation Counsel's material.

CHAIRMAN CRAVALHO: Will you place a time limit, one hour, two hours, one week, two weeks, whatever, so we'd have a time definite?

MR. NOBRIGA: We will be reconsidering this within two weeks, the first week of March, and then bring it to the Board.

CHAIRMAN CRAVALHO: Is there any comment on the part of the members of this Board? If not, referred back to the committee for consideration of its legal interpretations and opinions. No objection? So ordered.

MR. NOBRIGA: Thank you, Mr. Chair.

CHAIRMAN CRAVALHO: Capital Programs Committee.

MR. NAKAMURA: Mr. Chair, regarding a new well for Upcountry, the Capital Programs Committee met on Thursday, February 8th and noted that there is an urgent need for development of additional and reliable water sources to serve the Upcountry area. The committee further noted that there is an existing appropriation of one million dollars in the fiscal

year 2001 budget, and believes this project should be pursued expeditiously.

The committee recommends that a consultant be retained to conduct a study of the Upcountry area to determine the most appropriate location for an exploratory well. In so doing, the committee further recommends that this study not be limited to any specific sites, but rather be as general as possible in scope in order to explore all possible alternatives. I would move for adoption of the recommendation.

CHAIRMAN CRAVALHO: Any second?

MR. RICE: Second.

CHAIRMAN CRAVALHO: You have heard the motion duly made and seconded for adoption of the recommendation. I believe I'm correct that it's wide open as to who the consultants are to be, and we will recruit for consultants.

MR. NAKAMURA: The department will go through the normal consultant selection process.

CHAIRMAN CRAVALHO: And report back to the committee. You have heard the motion duly made and seconded. Any further discussion? If not, are you ready for the question? All in favor say "aye."

(A chorus of ayes).

Contrary?

(No response).

Carried. Proceed to the next one.

MR. NAKAMURA: Mr. Chairman, status report on fiscal year 2001 Capital Improvement Program Budget. Staff presented a status report. I don't believe there's any action required. The committee report does note some items which we believe to be noteworthy. If there are any questions we'd be happy to discuss them.

The one item that I think will require further discussion and action by the Board is the Director's Report regarding the appropriation for North Waihee Source Development, Kupaa Well II, where the Director has indicated his thoughts that rather than proceeding with Kupaa Well II, that we should look for an exploratory well in the north of the Kupaa Well site. I think the committee felt that that was an appropriate direction. However, a specific recommendation will be forthcoming from the Director regarding this project.

CHAIRMAN CRAVALHO: So noted. The Chair has one comment with respect to the status of the capital improvements, and that deals with the storage for the Upcountry area, the Piiholo area. There is an appropriation of 2 million dollars, plus or minus, of the state and pending receipt of any release from the Governor, it appears we may be just waiting and biding time. The Chair would like to suggest that in the interest of speed and efficiency, that we proceed using our portion of the money to initiate planning and to get things moving. So if and when the Governor does release it he's just reimbursed. And if not, at least we're that much ahead with respect to the planning. We are not going to sit back and put our fingers in a place we're not supposed to be.

No objection? So ordered. And Mr. Craddick, I hope you really understand it and you don't go look for something that wasn't said.

MR. CRADDICK: No.

CHAIRMAN CRAVALHO: We're saying go, okay?

MR. CRADDICK: Yes.

CHAIRMAN CRAVALHO: We are ready to go for Operations Review, East Maui Watershed Protection. It's all yours, Mr. Starr.

MR. STARR: Yes, sir. Relating to Director's Report 00-39, there was a public hearing held last night. There was some spirited comment from the public and there was also appreciation to the Board for holding the hearing and allowing people to speak on the matter. And I'd like to move that this

item be filed.

CHAIRMAN CRAVALHO: So noted. No objection? So ordered. Shall we proceed to the next item. Did your motion cover everything?

MR. STARR: No, just item one.

CHAIRMAN CRAVALHO: Shall we go to item two?

MR. STARR: Yes. If I may, I'd like to take item two and item three together.

CHAIRMAN CRAVALHO: Fine.

MR. STARR: There was, once again, a public hearing last night and there was a lot of spirited comment on these, and the committee would like to take them back to a meeting when the committee can try to decide on a course of action. So I request that they be sent back to the committee, and hopefully by the next full board meeting we will be able to recommend some action on items two and three to the Board.

CHAIRMAN CRAVALHO: The Chair would just like to point out some time elements, if we are going to be able to take action on this particular matter. The Chair's tenure ceases on March 31st, and it is the position of the Chair that all matters that have been referred to various committees will just cease at that time, because the new Chair should have a completely open hand and opportunity to decide on how they wish to proceed on any matters coming before this body. So let us keep that in mind.

The Chair also wishes to indicate that it is the position of the Chair that the final positions on the issuance of meters and priorities are the responsibilities of the entire Board, and needs to be made accordingly. And I think if we look at it from that point of view we will be in very good shape.

Very bad to whisper, it generates a level of suspicion. And knowing who we're dealing with, it becomes even more suspicious. Anyway, Mr. Craddick?

MR. CRADDICK: Mr. Starr referred to it as a public hearing. I believe it was a committee meeting because we didn't have 30 days' notice for public hearing.

CHAIRMAN CRAVALHO: The Chair really appreciates your fine handling and adherence to the provisions of the law. And may we remember this day and this time and your respect for the law, because it's going to be coming back to haunt you, I can assure you of that. When we get into subjects it's going to come back. I like it, in fact, very much, I like it. It's a step in the right direction.

Next?

MR. STARR: Thank you, sir. Once again, item four, the evaluation of the Director, and I would like to once again request that the evaluation of the Director be put on the agenda for the next meeting, and that the committee will have guidelines for the evaluation to recommend to the Board, which can be acted on at the next I believe it's March 22nd meeting of the Board of Water Supply.

CHAIRMAN CRAVALHO: The Chair appreciates the announcement. The Chair would like to raise a question. Mr. Takitani, do we not have a system or a schedule of priorities of evaluation?

MR. TAKITANI: Yes, we do.

CHAIRMAN CRAVALHO: That was adopted by the Board? So that has to be available for all of us to look at at that time. Because if we don't have one then we may need to take some legal steps to make everything mesh. The Chair also would like to point out the matter of time. The evaluation of the Director and/or staff is an extremely serious, extremely serious matter to come before the Board. In fairness to all members of the Board, we should have adequate time. So if necessary, we will have special meetings, or whatever the case may be. We will take a look at it at that time and see what is necessary. So every person would have an ample opportunity to look at everything.

And in the same manner, the Chair would be very open to the receipt of any recommendations and any presentations

that would indicate the operations that would give us light into the programs, the activities taken, and where we are and what has been taken and what has been done. I think we then can come out, and we simultaneously leave the matter for the new Chair to be looking at, should it be necessary. I think that's very important, very important. No objection? Okay, good.

MR. STARR: Just for clarity though, my committee will be having a meeting.

CHAIRMAN CRAVALHO: Up to March 31st.

MR. STARR: Yes, on the criteria in the next two weeks or so.

CHAIRMAN CRAVALHO: No problem, as long as we understand that the recommendation will be coming back, we will look at things, see what legal provisions, if any, are present, and to reconcile all things. No problem? That's good.

Shall we proceed then to the next item of business. All the matters in the Rules Committee have been deferred and we are deferring everything to the Committee of the Whole.

Shall we then proceed to item 8, Other Business, request for Board authorization for the Director of Water Supply to sign cancellation of Kualapuu. Is that communication from you, Brother Craddick?

MR. CRADDICK: Not really, it's from Corp Counsel.

CHAIRMAN CRAVALHO: Shall we then defer action until the next meeting?

MR. CRADDICK: I think there's some parts with the County.

CHAIRMAN CRAVALHO: I have no objection to anybody making a presentation for information for the Board at this time or later. The suggestion from the Chair for deferral on this particular question is because the Corporation Counsel indicated to me it didn't have all of the necessary background at the present time on this particular question.

MR. CRADDICK: I can provide it, if you want.

CHAIRMAN CRAVALHO: That's what I'm afraid of.

MR. CRADDICK: Anyway, this agreement was entered into in 1987 between the County and the Molokai Ranch, and a trust fund was supposed to be set up to which designs could be done for the County to take over the wastewater plant and the Water Department could take over their water system. I guess somewhere along the line they stopped making payments into this trust fund. The agreement kind of fell on what I'll call hard times, for lack of a better definition.

The County has now, I guess, asked for some parks to be granted to them and turned over, and Molokai Ranch said "We're not doing that until we get this agreement cleaned up." And I think all the parties felt the best way to clean it up was to cancel the agreement. And if you look on page 47 -- or no, wait a minute, 23, it says the County will use its best efforts to develop a public water system to serve the Kualapuu Village Subdivision within the term of this agreement, and Molokai Ranch will cooperate with the County in order to achieve this objective.

Molokai Ranch has said they will still work towards getting our well integrated with their well, and if that is the case, I have no objection to recommending to the Board to approve the cancellation of this agreement.

CHAIRMAN CRAVALHO: The recommendation of the Chair is that we defer until we have a chance to examine, defer it to the next meeting to work with the Corp Counsel's office, or whatever the case may be. Earlier this Board went on record with respect to another matter, not dealing with this, but dealing with the concept of opening Pandora's box as it related to Miss Johnston, if you recall, on behalf of her client. It is the understanding of the Chair that perhaps this is not an isolated instance. That somewhere along the line from within the administration is a proposal dealing with some other matters, and the utilization of land and/or agreements or agreements with the Water Department, or what have you, to make available a variety of other proposals from the administration. And we are not aware of the consequences of

all of that.

So that's the only reason I suggest that we look carefully at all things, and we set a criteria for some of these things that are pending before the Council. It was dated somewhere along the line of February 16th, or thereabouts, from the Department of Human Concerns to here, to here, to here, and it involves West Maui. It involves I think Amfac prior to that. Pioneer Mill, what have you. And there are a variety of suggestions that I think we all should look at. And maybe we will look at the criteria that the Board will use. That's the only reason, for protection of the Board.

MR. NAKAMURA: Mr. Chairman, may I request that when this matter comes up, or prior to this matter coming up, I assume at the next meeting, that the staff provide a summary of the issue before the Board. Because we have a lot of paper, but it's very difficult to understand what the conditions really are.

CHAIRMAN CRAVALHO: The matter that the Chair alluded to earlier as it relates to Amfac and Pioneer Mill, and what have you, I just had this morning a very brief opportunity to look at some of the documents, and it was very, very brief. And it indicated that reference is being made to a document or an agreement that was signed by the Board of Water Supply back when. And if so, the Chair is concerned with the administration or a department of the administration moving to amend or to change or to shift an agreement which had been reached by the Board of Water Supply. So I said, hey, let's wait a little bit so we can take a look. No objection? So ordered.

Anything else that legitimately should come? Communication from Judge McConnell. Remember what I said, legitimately. The Chair would suggest this communication from Mr. McConnell be referred to the Corporation Counsel's office.

Completely off the record -- on the record, but I'll express some thoughts. A referee, court decision or litigation on potential subdivisions between partners' disagreements predicates his recommendation on action by this Board. I think that is highly irregular. A decision should be made by that person, whatever it may be, and then this Board takes a look at it to see whether it is willing to, as it did in the past with respect to court decisions, to approve it subsequently, but not

prior to, because then we're substituting ourselves as the arbiters. I think that's an improper role for us.

And I believe that the distinguished Judge McConnell may be functioning for a fee, and I see no suggestion that he would share this fee with the Board of Water Supply or the Department. So he should do his work and we do ours. And he keeps his money and we don't dip into it. Okay. You see what happens when you get to be as old as I am, you can be as difficult as you wish.

All right, it's up to you, Mr. Craddick.

MR. CRADDICK: Update on the Upcountry water situation. Wailoa Ditch is at 61.2 million gallons, or 30 percent of capacity. Kamole treatment plant was producing about 1.6 million gallons of water. Piiholo treatment facility the reservoir is full. The production was about 1.9 million. Waikamoi is 76 percent full. Kahakapao is 100 percent full. Olinda was producing at 1.5 million. Total demand from the treated water I guess was a half million yesterday, and the average for the last week was about 4.7, and groundwater production was about 0.8.

CHAIRMAN CRAVALHO: The Chair would suggest you stop right there. We won't get into any climatological situations. Any other matters to come before this body? If not, we thank you. We will meet again at the next meeting. The meeting is adjourned.

(The proceedings were concluded at 9:50 a.m.)

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