

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
FINANCE COMMITTEE MEETING

Taken at the David K. Trask, Jr., Building, 2145 Kaohu Street, Room 205, Wailuku, Maui, Hawaii, commencing at 9:30 a.m. on May 16, 2001.

Reported By: Rachelle Primeaux, CSR #370

ATTENDANCE:

Members Present:

Peter Rice, Chair
Mike Nobriga
Howard Nakamura

Others present:

Kent Hiranaga
Jonathan Starr

Staff Present:

David Craddick, Director
Fran Nago, Secretary
Mike Quinn
Howard Fukushima, Corporation Counsel
Ellen Kraftsow
Herb Kogasaka
George Tengan

IWADO COURT REPORTERS, INC.

CHAIR RICE: I call the meeting of the Finance Committee Board of Water Supply County of Maui meeting to order 9:30 a.m. on May 16th. The agenda has been distributed, and we shall proceed. In attendance,

Fran is not here. In attendance, Board Members of the Finance Committee Howard Nakamura and Michael Nobriga. Board Member Jonathan Starr, esteemed Counsel Howard Fukushima, Director David Craddick and staff.

MR. CRADDICK: George Tengan, Herb Kogasaka, Ellen Kraftsow, Mike Quinn, and we also have Corporation Counsel Blaine Kobayashi and one of the items Ray Matasi from Brown & Caldwell.

CHAIR RICE: Corp Counsel is here for some special reason?

MR. CRADDICK: Yes.

CHAIR RICE: I'm being funny. Okay. Let's move on. Is there any testimony? We've got the approval of the minutes distributed from October 9, November 14, January 11.

MR. NOBRIGA: Move to accept.

MR. NAKAMURA: Second.

CHAIR RICE: Moved to accept as presented for those dates I just mentioned. Any discussion, comments, additions, deletions? All in favor, signify by saying, "aye."

VOICES: Aye.

CHAIR RICE: Opposed, say "nay."

(No response.)

CHAIR RICE: Thank you. Any testimony from the public at this point? Seeing and hearing none, we will move to the first item on the agenda. Some of these items, Committee Members, I think will go rather quickly. I'll make some comments, and if you have

some objections or other thoughts, please jump in.

Request approval to write-off uncollectible accounts. You've seen the letter from David and the number is miniscule in comparison to our total receipts. And it is, in fact, quite a bit lower than our uncollectibles last year. And to whatever extent the Department deserves kudos, I want that to be part of the record. I think given \$24 million in collectibles and having \$9,000 in write-offs is very good performance. And I would urge the Committee to recommend approval of the write-off.

MR. NOBRIGA: So move.

MR. NAKAMURA: Second.

CHAIR RICE: Discussion? All in favor, "aye."

VOICES: Aye.

CHAIR RICE: Opposed, say "nay."

(No response.)

CHAIR RICE: Moving on. Amendment to the 2001 budget for electricity expenses. That's Item Number 2. Question, Mike or David, the letter relates to electricity charge. I think that's right on in terms of the cost of the electricity. We all know that the utility has the right to pass on that surcharge for the cost of energy. It's hurting all of us, but my question is what -- have you broken out what rate increase -- is rate increase all of this 700,000, or is there some other?

MR. QUINN: There is no rate increase.

CHAIR RICE: I meant the surcharge. The total variance is as a result of the surcharge, Mike?

MR. QUINN: I haven't done the total. I just

took this one particular account as an example. I could probably get that.

CHAIR RICE: It might be something if you can grab it for tomorrow's budget discussion.

MR. QUINN: It's a function of basically this surcharge and how much pumping, extra pumping we've been doing during dry conditions.

CHAIR RICE: Yeah, so I guess the pumping versus surcharge falls into each area, if you could roughly give us an idea, it might be something interesting for our budget discussion tomorrow.

MR. QUINN: Okay-doke.

CHAIR RICE: Otherwise, Committee Members, I guess it's a real cost here, and unfortunately, it's a negative variance. I think we need to appropriate the money.

MR. NAKAMURA: One quick question, Mr. Chairman. I wonder if the Director could give us a previous status report on the progress for being able to perhaps purchase electricity from HC&S.

MR. CRADDICK: We can do that. We've gotten a price for providing power to Hamakua Poko wells. It was about 900,000 I believe, and since we only use that about I think three or four months out of the year, it doesn't justify them. But the generators we use there now, they're currently in the process of seeing what it will take to get the power up to Kamole Weir. And if there's a power drop there along the way, then it may justify that expense, but I believe HC&S has hired an outside consultant to help them in that.

MR. KOGASAKA: We're looking at someone to help us evaluate the proposals that are coming in from

HC&S.

MR. CRADDICK: Okay.

MR. KOGASAKA: We made one contact, but we haven't proceeded much further than that at this point.

MR. CRADDICK: So have they responded back on the Kamole Weir yet?

MR. KOGASAKA: HC&S has not yet responded.

MR. NAKAMURA: We're doing all this in-house, or we're using assistance?

MR. CRADDICK: HC&S is doing it, not us. I think Herb is talking about when we get something to evaluate what they give us and until we get something from them. And I know at one point they were -- I think weren't they asking for some money, Herb, to hire an outside consultant for themselves?

MR. KOGASAKA: No. I was looking at using some of our funds for professional services to do the evaluation. It's the scope of work that I'm having some problems trying to put together here.

MR. NAKAMURA: Thank you. Personally, I have no problem with hiring a consultant to, you know, to do the appropriate analysis on behalf of the Department because I think this needs to move along.

CHAIR RICE: I'm in agreement. And I hope that it's part of our budget and our goals for the next fiscal year, meaning we have an opportunity here that we shouldn't let pass by, especially given what's happening with the fuel costs.

MR. NAKAMURA: Move for approval of this request, Mr. Chairman.

MR. NOBRIGA: Second.

CHAIR RICE: Moved and seconded. Any discussion? All in favor --

MR. NOBRIGA: I think the pumping is a direct proportion to the Board's inherent commitment to provide water to the upcountry area, so that's why I tend to support these types of measures.

CHAIR RICE: Yeah, I'm not making a comment on that. I just was curious as to the proportion.

MR. NOBRIGA: It would be nice to get like gas power to do it.

CHAIR RICE: Any other comment on the motion? All in favor, say "aye."

VOICES: Aye.

CHAIR RICE: Opposed, say "nay."
(No response.)

CHAIR RICE: I would like to recognize Board Member Kent Hiranaga. Make a note Kent arrived during the discussion on Item Number 2. Welcome, Kent.

MR. HIRANAGA: Thank you.

CHAIR RICE: Kent is -- what do you call that when you preview a class in school and decide whether you want to take it or not? He is auditing. He's previewing the committee. He may become a member of this committee in the future.

Okay. Number 3, request approval to acquire outside recruitment service to assist in obtaining letters of intent for the engineering program manager position. David, you want to --

MR. CRADDICK: The low down on this, okay. Back in what was it Christmas 1998, this position became vacant. We tried at first to see if anybody in-house wanted the job. Everybody said no. I asked for a list of names, and one of our employees was on the list. And from there I said, well, why don't you try and do the job and we'll cancel the list. We did do that. That was two years ago.

It's now to the point where that employee has some concern about taking the job, and I have some concern with the list of names that I get from Personnel Services. Now, Personnel Services is limited by the Civil Service laws. And one is that Civil Service is supposed to provide a list of eligibles, and the eligibles are to be -- well, it says all the employees in the service of the Government or the State or any service of any County Municipal Division of the State shall be citizens or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

So basically, what this does is it limits people to within the State, and I don't think we're going to get the best qualified candidate limiting our search within the State. So what I'm trying to do is get letters of intent, people that might like the job when we ask for a list of applicants. And the cost that is in there, I believe it was a maximum cost. It certainly could be much less than that. It could be that if Personnel Services can do this and wants to do it, they certainly would be able to I believe. And that's -- that's it.

CHAIR RICE: I've already expressed to David some concern about this because if you use a traditional head hunter service, then you pay upon your decision to hire a person that they refer to you versus paying somebody upfront for a list. And this is -- this is a fair amount of money to pay somebody to produce a list, but I have some feeling for the director's need to be provided with good candidates, so I think we want to do something to help him solicit candidates for the job. And I'm not sure paying

somebody a fee to give us a list of names is a very good expenditure.

Maybe there are -- I can refer you to head hunters who can help you. And the other advantage by using the traditional head hunter is if you've got two candidates and you know this candidate A and B are equally qualified and appealing, but A comes with 20 percent of his first year's salary as a fee and B doesn't, then you can make that decision at the time that you make the hiring.

MR. NOBRIGA: Can I ask one question of counsel? When David read that Civil Service thing, give me some background as to the interpretation of the word "and" versus the phrase "and also."

MR. FUKUSHIMA: In the context of?

MR. NOBRIGA: The sentence. It says, "Citizens of the United States and residents of Hawai'i."

MR. FUKUSHIMA: I have a -- and if I may comment, Mr. Chairman.

CHAIR RICE: Yes.

MR. FUKUSHIMA: I was curious as to whether the Department had consulted with Personnel Services with respect to getting recruits in this fashion. I'm aware of the Civil Service law which requires when there are vacancies in a Department, there are certain provisions in Chapter 78 of which require certain procedures when vacancies do arise in employment. And I'm not familiar with using a recruitment service or, as the Chair put it, a head hunter. So was there consultation with DPS?

MR. CRADDICK: Yes.

MR. FUKUSHIMA: And they approved this method of recruitment as being existent with Chapter 78?

MR. CRADDICK: They said they probably couldn't do it.

MR. FUKUSHIMA: But the Department could?

MR. CRADDICK: Yeah. Because usually when they come in, it's to actually fill a vacancy. In this case here, we're only getting a list of eligible candidates. We're not filling a vacancy. Because from this step, then you would have to go out with the application. These people would then have to figure out how they would become legal residents of the State.

MR. FUKUSHIMA: Well, there is an obligation on the Department when there is a vacancy that they shall go to -- shall request the director of personal services to submit a list of eligibles, and quite frankly, I was involved in a -- in an action involving the Police Department, although it was a little different context, where the Police Department did not get a list of eligibles.

And so the court said when there is a vacancy in the Department, it's an obligation for the appointed authority to request a list of eligibles from the Department of Personnel Services. So I am a little curious with respect to DPS's advice to the Department that they could use an outside agency for a Civil Service position.

MR. CRADDICK: No, Howard. That's -- this is to get a letter of intent that they would like the job. This is not applying for the job. This has nothing to do with an application for the job. This is a letter of intent that they would be interested in the job should it become available. That's all. Nothing to do with filling a position.

MR. FUKUSHIMA: I'm sorry for that.

CHAIR RICE: No, no, I understand what you're saying, Howard.

MR. NAKAMURA: Mr. Chairman, I also have some reservations about this request. If it's just a matter of getting letters of intent, it seems like although there are some other facts to identify, that seems like a lot of money to look for letters of intent. But I have the basic question that was somewhat alluded to, which was whether or not under the Charter is not the Department of Personnel Services charged with the function of recruiting available candidates for Civil Service positions?

There's a process to go through, and if there's a shortage, then I believe there's procedures to go outside, to expand your area of recruitment, but I'm not sure that we're not actually getting into an area which is really outside of the province of the Department.

MR. FUKUSHIMA: If I may. There are provisions under Chapter 76 regarding Civil Service recruitment. As I understand it now, the director is saying that this is sort of outside the Civil Service recruitment. This is merely getting letters of intent that people would like to apply for the job. And it's a little different than actually recruiting someone for the job I presume. There lies a distinction between actual getting eligibles on a list versus a letter of intent that they would like to look further into the position that's available, and I presume that's what the Department is looking at.

And if there is, and correct me if I'm wrong, a positive reaction or letters of intent, then that person will be advised to move to the State of Hawai'i and establish residency.

MR. CRADDICK: They'll figure out how to do it. We won't advise them of anything.

CHAIR RICE: Let me suggest that having two years pass since we've -- I assume the Department of Personnel Services will, when notified of a vacancy by a department, does the posting, is responsible for the

legal posting of the job, and then that -- through that posting, they provide the letter -- I mean the list of names?

MR. CRADDICK: Right.

CHAIR RICE: And having two years pass since this came up before, we probably should write them again and ask them for a list again. And at the same time --

MR. CRADDICK: Yeah, but then that's the problem. Once you get that list, then you have to deal with it. And you don't want a list of names that you can't pick a candidate off of because then you're stuck.

MR. NOBRIGA: Can I ask somebody for a variance to that? Can I ask the Civil Service Commission for one variance?

MR. FUKUSHIMA: Well, if the first list of names is inappropriate, I believe, or the Department doesn't find anyone that is qualified for the position in the Department pool, although all the eligibles are supposed to be qualified, but if they don't find anybody satisfactory, I believe there is a provision set up that they can request a further list of names. And if you exhaust that, then maybe you should, I don't know, come back to the committee.

CHAIR RICE: Well, there's -- if what you're saying, David, is that based on the job description, Personnel Services gives you a list. Now, they've prequalified them, so the guy who is a janitor who says he wants to be an engineer doesn't make the list, right?

MR. CRADDICK: Let me give you an example here of what went on with personnel. And first, I told them, you know, I want a list of engineers because it says Engineering Program Manager. I got a list with only civil engineers. Well, you know, right away

they've somehow summarily rejected other engineers, I don't know how, because the list said it was an engineering manager, program manager. So that was the first thing. I think we got that straightened out now to where the job will allow mechanical, electrical engineers.

Then the next thing was I said here is a list of questions that I wanted every candidate to answer at the time they make their application so we can do some evaluation. No, sorry, we can't do that either. And because it determined the person's I think attitude about the job or something like that. They were saying something like that, to that effect, and so I'm not quite -- we certainly want to know the person's attitude about the job when we interview them. So why things like that can't be found out when the person applies for the job, I don't quite understand.

CHAIR RICE: Well, there's certain questions you can ask and you can't ask, so without knowing the question you asked.

MR. CRADDICK: Yeah, well, I suspect that it wasn't an illegal question. It was just one that they said they couldn't evaluate, so they didn't want to ask the question.

CHAIR RICE: I guess I understand that. I'm struggling with the fact that the process started two years ago, and if we go outside and someone opposes the fact that we went outside, they're going to say was it reasonable that we are going off of a list that was generated two years ago in 1998, and it's 2001? And the answer is probably going to be no.

And all I'm suggesting is that we go back through the process. Maybe simultaneously we ought to look at -- I'm not in favor of allocating \$15,000 to get a list personally. I think there may be other services that can help us generate lists where if we hire the person we will pay on the back end.

MR. CRADDICK: That would do this scope of work here?

CHAIR RICE: Yeah, the recruitment, I use recruit term head hunter, but to use recruitment services people, there must be other opportunities. Because in my business, we use people where you pay once you hire them. You understand, you get a contract that says this -- if I produce a person that you hire, you pay me this, X.

MR. CRADDICK: If we had that option with Personnel Services, I would take it.

CHAIR RICE: But I would suggest that we move along those lines, so I don't know what the other committee members think.

MR. NAKAMURA: Mr. Chairman, I move we file this request, that we recommend we file this request.

MR. NOBRIGA: I second that. I would have supported a deferral, but that's fine.

MR. CRADDICK: Can I say something. If you're going to file it, just deny the thing and move on rather than filing it and having it there in the background somewhere.

CHAIR RICE: Well, we have an issue -- no, wait a minute now. We have an issue about hiring the position. I'm trying to deal with the hiring of the position. That's all I'm trying to do.

MR. CRADDICK: Well, I can understand from the committee that they don't want to do it this way, so I'll just ask for a list of eligibles. We get what we get.

CHAIR RICE: So that the motion stands.

MR. NAKAMURA: File it or deny it, I think the net effect is basically the same.

CHAIR RICE: Let's deny it then.

MR. NAKAMURA: I would amend my motion to deny the request.

MR. NOBRIGA: I'll go along with that.

CHAIR RICE: So you're withdrawing your second on the first motion, and you second the new motion to deny the request?

MR. NOBRIGA: Yes.

CHAIR RICE: Any other discussion? Yes.

MR. STARR: Just a suggestion to start the process. Maybe you could suggest some names of head hunter companies. Maybe that process could also be looked into on a slow basis if the list doesn't produce anyone.

MR. CRADDICK: Can't do it, because what Howard was saying, there's a certain process. Once you're going to fill in the vacancy, there's a certain process you have to go through by law, and you can't deviate from it. So this is something that I was trying to get a good list of names.

CHAIR RICE: Motion is to deny. A second. Any other discussion? All in favor of the motion, say "aye."

VOICES: Aye.

CHAIR RICE: Opposed, "nay."

(No response.)

CHAIR RICE: Motion carried. The request is denied. Sorry. Request authorization to provide leak

insurance as a customer service to customers. Board Members, I think this is provided to us as a concept. It's not a program that we are going to recommend approval for to the Board. If we think this is a concept that we might be interested in, I think we would then recommend that we direct the director to provide us with other more detailed information on options.

MR. CRADDICK: That's correct. And we do need to do some research as to how rule making would be affected by a decision along these lines. I would like to know who else has this kind of a system in place and what kind of fees and things are generated from it at the same time, so if there's no objection.

MR. NOBRIGA: No objection.

CHAIR RICE: So ordered. Request for approval of the Memorandum of Understanding for the Lanai Forest and Watershed Partnership. Have you read, had a chance to look that over?

MR. CRADDICK: There's two parts in there, one to the Memorandum of Understanding and then the Board to join the group also.

MR. NAKAMURA: Perhaps the director could briefly describe the project.

MR. CRADDICK: Could I pass that on to Ellen there since Ellen has done the work.

MS. KRAFTSOW: This is with regard to the Water Advisory Committee. Well, independently, there was a Water Advisory Committee that we were working on where the committee just routinely was concerned about ongoing drought and loss of forest cover. The State Water Commission did a model of the ground water of the Island of Lanai and found that about half of the fresh water recharge in the key recharge area depends upon that forest and the forest is diminishing.

At the same time, starting a little bit later, the Nature Conservancy had a group that work on its Kanepuu Reserve, which is a grove land preserve, but they started looking at the broader region of ecosystem of Lanai and they also reached the conclusion that Lanai Hale was, for their reasons which are different than ours, very critical and was in trouble.

And so the community and these various agencies that have been working together started talking about getting together and forming a partnership as being formed in other locations to cooperatively ensure that the watershed forest that's so critical for their yield is managed and this is one of the islands of the County it's been one of our goals over years to establish watershed partnerships for all of the major watersheds in the County, and so this would just be following along with that.

Signing this memorandum does not in and of itself, does not make the Board in any way responsible to give any money or do anything. It's structured after the same format of the other partnerships where this is an agreement in principal to meet and see how we can cooperate and any other funding issues or whatever are covered by separate agreements. Just that's how all the watershed partnerships are structured.

CHAIR RICE: Members of the Committee, this agreement I think is more properly reviewed by the entire Board, but I think it was referred to Finance because there needs to be some insurance there's no financial commitment involved in this agreement; is that correct?

MS. KRAFTSOW: The decision to refer it was --

CHAIR RICE: No, no, I'm asking you if we were to recommend approval.

MS. KRAFTSOW: Yeah, there's no financial commitment.

CHAIR RICE: It's an agreement to get together

and work together on this particular watershed project.

MS. KRAFTSOW: Yeah, other than flying over. I mean that's some kind of financial commitment, but it's something we do anyway.

MR. CRADDICK: The next item on the agenda is a grant, and that grant I don't believe can be given to a private water utility. It's an EPA grant, and I suppose we could still pass that through us without being a partner to the group, but I think if we're going to do this work of doing the administrative work of this grant, you know, we should -- it would be my recommendation anyways to be on the watershed partnership group also.

CHAIR RICE: I don't think there's any problem, speaking out of turn here, being a member of this watershed partner agreement. I just wanted it to be clear that it's not a financial commitment, and the next item on the agenda, it kind of follows our participation in the partnership.

MR. NOBRIGA: Mr. Chairman, has the document been reviewed by Corporation Counsel?

CHAIR RICE: Good question.

MR. FUKUSHIMA: It will.

CHAIR RICE: It will be before it comes to the Board on the 24th.

MS. KRAFTSOW: It was upstairs, the document.

CHAIR RICE: It was sent upstairs. Upstairs is the euphemism for Corp Counsel. Any problem recommending approval of this to the full Board subject to Corp Counsel's review and with the understanding that there's no financial obligation on the part of the Board of Water Supply?

MR. NAKAMURA: No objection.

CHAIR RICE: Can I have a motion to that effect.

MR. NOBRIGA: So move.

MR. NAKAMURA: Second.

CHAIR RICE: Any questions, comments on the motion? All in favor, say "aye."

VOICES: Aye.

CHAIR RICE: All opposed, say "nay."
(No response.)

CHAIR RICE: Thank you. Next item is the pass through of the \$50,000.

MS. KRAFTSOW: It's an EPA grant issued through the Clean Water Branch.

CHAIR RICE: And that we would accept the \$50,000 on behalf of this Lanai Watershed Restoration, and we would then remit those funds to this partnership?

MS. KRAFTSOW: As the work gets done, actually to the Lanai companies, who would be doing the work. They have to match. It's a matching grant. The Lanai Company puts up half. The Government puts up half, but the Government won't release the funds to Lanai Company, so we have to administer and make sure the works get done and ensure that the match is happening and bill DOH.

CHAIR RICE: Okay.

MR. NAKAMURA: Mr. Chairman, one quick question to Corp Counsel. Are there any potential problems

with the grant that's coming through the Department of Water Supply to a private entity developed, some sort of a formal process?

MR. FUKUSHIMA: Well, the process would be evidenced by the agreement that would be entered into between the Department and the Lanai Watershed Partnership. Isn't that correct, Ellen?

MS. KRAFTSOW: Yeah. And also I guess with the granting agency, by accepting the grant, you know, they've met their standard of requirements.

CHAIR RICE: So that theoretically if at the Board meeting, the Board doesn't agree to be a participant in this partnership, then we couldn't accept the \$50,000 unless we previously researched some other method?

MR. CRADDICK: Try that again.

CHAIR RICE: I'm just being complicated.

MS. KRAFTSOW: I don't have that impression, no, actually.

CHAIR RICE: Is that what you were getting to?

MR. NAKAMURA: I was just concerned as to whether or not there were any legal issues, the pass-through to a private entity. And I don't have any problem with the project conceptually, and if Corp Counsel ultimately signs off on this, it's fine with me.

MR. FUKUSHIMA: At this point, I'm not aware of any.

MR. NOBRIGA: It does not need to go through the County Council or Administration in any way, shape or form?

MR. FUKUSHIMA: I don't believe so.

MR. NOBRIGA: I have no objection.

CHAIR RICE: It's just a pass-through. Mike.

MR. QUINN: I just pulled the financials, and financially, we would just have to set it up as a grant and track these expenses because we could be held accountable for the disbursement of the funds. It would be treated as a grant similar to the way the County treats their grant money.

CHAIR RICE: We should seriously be accountable for the disbursement.

MR. CRADDICK: Actually, we don't ever get the funds I don't believe. All we do is administer it.

MS. KRAFTSOW: It's like the AWWARF grant we got a few years ago. RCUH would do the work and bill us and we would bill AWWARF. AWWARF would pay us, and we pay them.

MR. CRADDICK: So we don't get \$50,000 in our bank account.

MS. KRAFTSOW: Oh, no, but we have to pass it through.

CHAIR RICE: That's important. We're not going to sign on to an agreement and theoretically be responsible for approving the work that's done by the Lanai Company under this agreement in the money is going to flow straight to them.

MR. CRADDICK: No, there's an administrative charge we take out.

CHAIR RICE: I know, but you're saying we don't actually get the \$50,000.

MR. CRADDICK: No, we don't.

CHAIR RICE: We approve the disbursements and then they write the checks directly to Lanai Company?

MS. KRAFTSOW: No, they write the checks to us, and we write the checks to Lanai Company. What he was saying is we don't get one big \$50,000 chunk upfront.

MR. QUINN: But the money does pass through us. We will be accountable for setting up the appropriate financial requirements.

CHAIR RICE: I understand they're not going to do that. It's just like a draw from the bank when the contractor gets this much done, they give you the money, and you pay them. But we are accountable for it and you'll have an account that will be set up that will zero out.

MR. QUINN: In the operating budget. And because we're going to give 1 percent, the administrative fee I believe.

CHAIR RICE: And that brings up my next question, which was is the 1 percent fee provided for in the agreement?

MS. KRAFTSOW: I don't know if it's 1 percent. We try to keep it as little as possible so we could spend the most money possible on the watershed. It's like \$800, 400 from the Government.

CHAIR RICE: But that fee is provided for in the agreement?

MS. KRAFTSOW: It is provided for in the grant, yes.

CHAIR RICE: Okay.

MR. NOBRIGA: Move to accept.

MR. NAKAMURA: Second.

CHAIR RICE: Moved and seconded to accept.

MR. NAKAMURA: Understanding that Corp Counsel will review both the partnership agreement and the grant agreement.

MR. FUKUSHIMA: We will be signing off on that.

CHAIR RICE: The motion is to recommend approval of this agreement to the full Board subject to Corp Counsel's review. Moved and seconded. Is there any discussion? All in favor, say "aye."

VOICES: Aye.

CHAIR RICE: Opposed, "nay."
(No response.)

CHAIR NOBRIGA: Is there anyone here from the Kea Lani? The next issue on the agenda was a request for review on a disputed billing.

MR. NOBRIGA: Excuse me, Mr. Chair. Okay.
That's what you was talking about?

CHAIR RICE: Yeah, subsequently, it appears that the request by Kea Lani is either going to be deferred or withdrawn. I believe it's being handled internally. I believe that speaking with Fiscal Officer Quinn that we do not owe the Kea Lani any money. In fact, they may owe us more money. So that's being handled internally. At this point, it will be deferred.

MR. NOBRIGA: No objection.

CHAIR RICE: Howard?

MR. NAKAMURA: Deferred or withdrawn?

CHAIR RICE: They haven't withdrawn it yet. They've requested it and asked for a deferral by E-mail, and they're not present. So I think we'll defer it, and if it's handled internally, we'll withdraw it at another meeting. So ordered. And Number H, discussion/possible action regarding Construction Development, Inc.

MR. CRADDICK: We have Corp Counsel here.

MR. NOBRIGA: I have one question.

CHAIR RICE: Yeah, go ahead.

MR. NOBRIGA: The only question I have is where in our current budget are we going to attempt to fulfill the obligation of the proposed settlement?

MR. QUINN: In the current budget, we would have to amend it subject to the Board's action. We don't have it in the current budget as an item in there.

CHAIR RICE: If I remember, this is the issue that related to a project that was -- so this would have, had it not gotten to this point, this would have been a change order issue for that project?

MR. QUINN: Could be, yes.

MR. NOBRIGA: So money should be available in a CIP carry-over some place?

CHAIR RICE: We're going to take some of Howard's CIP money if we recommend approval on this.

MR. NAKAMURA: Please feel free, Mr. Chairman.

CHAIR RICE: Blaine.

MR. KOBAYASHI: I'm just here to answer any questions if the Chair or any of the members have. My understanding was that this matter got referred to the Finance Committee to discuss how to fund this proposed settlement in this case.

CHAIR RICE: Refresh my memory. I know we discussed it in the -- I don't know that it was -- did the Board decide to -- we didn't move to approve a settlement.

MR. CRADDICK: No.

MR. NOBRIGA: Mr. Chair.

CHAIR RICE: Yes, sir. Go ahead, Mike.

MR. NOBRIGA: The matter was originally brought to the -- brought to the Board through the Oversight Committee, which I chair. And upon conclusion of mediation, mediated proposed settlement, it was my recommendation that the matter be deferred to Finance so we can find out if and where we have funding and then to go back the Board for final approval. And then that way it's approved one time because it has dual referral by two committees.

CHAIR RICE: And if I remember right, your recommendation was to accept the settlement offer that was proposed by the arbitrator, right?

MR. NOBRIGA: Yes.

CHAIR RICE: And from our committee's standpoint, the funding would be through CIP because there is no funds remaining in that original project.

MR. NOBRIGA: I don't know where. That's why I'm asking.

MR. QUINN: We will treat it as a change order and take it out the capital reserve replacement fund

to fund the replacement project. And there is funding there.

CHAIR RICE: It was a replacement project. There's adequate funds in that?

MR. QUINN: Yes.

MR. CRADDICK: Peter. On the sixth page of your packet is the financial page if you don't want to discuss the other. You don't have something that says confidential in there?

CHAIR RICE: No. This was in the other Board meeting.

MR. CRADDICK: You can hang onto that.

CHAIR RICE: I didn't get it with this packet, but I got it at the last Board meeting. So what's the pleasure of this group?

MR. CRADDICK: The amount of 281,000.

MR. NOBRIGA: This is noticed to possible convene to executive session, but I don't feel like it's necessary to convene to executive session unless Mr. Nakamura would want to go and find out more information. In that case, I would second his motion.

MR. NAKAMURA: My feeling is that if the Oversight Committee has reviewed this matter and is satisfied as to the substance of the settlement, I have no problem. I believe it's before Finance as the Chairman indicated to consider funding it. Mr. Quinn has indicated funding is available. I don't see we need further information.

CHAIR RICE: I don't think a discussion of the settlement is appropriate at this meeting. I think a discussion of the funding is what we're here for. The

recommendation was that 281 be funded from capital reserve.

MR. NOBRIGA: No objection, Mr. Chair.

CHAIR RICE: So can we have a motion to that effect?

MR. NOBRIGA: Okay.

CHAIR RICE: A motion would be to recommend if the full Board agrees with the recommendation of the committee to approve the settlement, then funding would be from the Capital Reserve Fund in the amount of \$281,000, that there are \$94,000 in the unexpended contract and retention monies for a total of 375.

MR. NOBRIGA: So move.

MR. NAKAMURA: Second.

CHAIR RICE: Any discussion on that? All in favor, say "aye."

VOICES: Aye.

CHAIR RICE: Opposed, say "nay."

(No response.)

CHAIR NOBRIGA: Any other business to come before the Finance Committee?

MR. KOBAYASHI: Mr. Chairman, one last clarification. So the issue of approval will be taken up at next week's meeting?

CHAIR RICE: At next week's meeting, and the funding has been provided for by the Finance Committee. Okay, good. Any other business for the

Finance Committee? Adjourned.

(The meeting adjourned at 10:10 a.m.)

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