

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
RULES COMMITTEE MEETING

Taken at the David Trask Building, Conference Room 207,
Wailuku, Maui, Hawaii, commencing at 9:00 a.m. on
September 20, 2001 pursuant to Notice.

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

A P P E A R A N C E S

Members present:

Michael Nobriga, Chairman

Clark Hashimoto

Jonathan Starr

Howard Nakamura

Kent Hiranaga

Staff present:

David Craddick, Director

George Tengan, Deputy Director

Herb Kogasaka, Engineering

Herb Chang, Engineering

Mike Quinn, Fiscal

Fran Nago, Board Secretary

Larry Winters

Others present:

Dorothy Williams

James Williamson

John and Maria Siele

Neil Strumingher

IWADO COURT REPORTERS, INC.

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CHAIRMAN NOBRIGA: Meeting of the rules committee of the Board of Water Supply will come to order. It's a reconvened meeting of September 11th. In attendance we have board member and committee member Jonathan Starr, board member and committee member Kent Hiranaga, esteemed counsel Howard Fukunaga.

MR. FUKUSHIMA: Fukushima.

CHAIRMAN NOBRIGA: Excuse me. Please pardon me. Board secretary Fran Nago, director David Craddick, deputy director George Tengan, court reporter Gloria baby. We have Mr. and Mrs. Siele, Ms. Williams, and Mr. Williamson.

If there's no objections from the members, we'll be taking agenda items slightly out of order. I would like to note the presence of a guest from the east side of Paia, Hugh Starr. We have a conference call expected in at 9:05 for agenda item No. B, Communications 01-26, request from Neil Strumingher for a water meter at TMK 2-4-13:40, 1050 Piiholo Road, Makawao.

Good morning, Mr. Strumingher.

MR. STRUMINGHER: Good morning.

CHAIRMAN NOBRIGA: We have just called a meeting back to order. I am the chairman, Mike Nobriga. With me in the audience is board members Kent Hiranaga and Jonathan Starr, members of the committee, various other children, ladies and gentlemen.

MR. STRUMINGHER: Thank you very much for giving me the time this morning. Obviously, you can understand the travel has been a little bit difficult so I appreciate you doing this over the phone.

CHAIRMAN NOBRIGA: No problem. Why don't you go ahead and give us your best efforts.

MR. STRUMINGHER: Sure. The reason that I'm on the phone today is because I purchased a property in Olinda, Maui in November of last year, and the property needs access to the public water system. And I'm very hopeful that you will see fit to grant a water meter to it. I was told at the time that

I -- both before I purchased the property and after I purchased the property, by folks at the water department, that it does have access to a water meter.

And I found out since I purchased it, that because of a subdivision type of arrangement with Mr. Glenn Coryell, who owns the adjacent property, that there is a water meter that's on the property but was never, I guess, accounted for in the subdivision. And Mr. Coryell and his tenants on his property have been using it since 1978 and have been responsible for the water bill since then.

And the house that I purchased on that property has not had access to that water meter; although, apparently, it has legal rights to it. It seems to me it would be simplest to grant a water meter to my lot so that I can have access to the public water system.

I am told, having looked at the tax records, that in the past, that these were two separate properties prior to the first moratorium on water meters dating back to the period from 1935 to 1960, and so I'm hopeful that that means that this piece is entitled to a water meter. And I'm wondering what I can do to expedite the process in getting water to the house.

CHAIRMAN NOBRIGA: Thank you, Mr. Strumingher.

Members, are there any questions for Mr. Strumingher? Hearing none, can I ask corp counsel --

MR. STARR: I have a question for him, which is, would he be able to make the improvements that were required by the department?

MR. STRUMINGHER: Yes. If I heard your question correctly about improvements required by the department, I did make an effort to get some estimates from a contractor, actually from two different contractors, both licensed, as to what the cost associated with those improvements might be.

And the lower of those two estimates was \$221,000, which I cannot afford to spend, and to me seems like a number that doesn't resemble anything that I could possibly be required to pay to get access to the -- my property fronts Piiholo Road, it's a public road.

The existing water meter that apparently has equal legal access from both Mr. Coryell's and my own is on the road, and all I'm asking for is a meter, you know, also on the

road -- on the existing pipe. I'm happy to spend some money towards doing that if that's what it takes. Whether that be 5- or \$10,000, so be it. But \$221,000 to lay that kind of equipment and pipe just is something that I cannot afford to do.

MR. HIRANAGA: Mr. Chairman, I don't seem to have a copy of the staff report. I just have this one letter.

CHAIRMAN NOBRIGA: Okay. Yes, Mr. Craddick.

MR. CRADDICK: Neil made a comment that they appeared to have equal legal access. I wouldn't say that's a fair representation. One property -- the other has legal access and the other property has no meter. As far as we can tell, it's Neil's property that has legal right to the meter. Now, just the fact that this Coryell has been paying for it for multiple years doesn't give them rights to the meter.

MR. STRUMINGHER: Who is that that's speaking?

CHAIRMAN NOBRIGA: Mr. Craddick.

MR. STRUMINGHER: Well, I appreciate your helping me to sort that out. I have been in a little bit of a quagmire in terms of my own efforts to try to figure out whether or not I'm legally entitled to the existing meter, as you might imagine. And if you are correct that my piece is in fact entitled to it, how do I go about getting access to it, or how do you suggest I try to resolve this?

MR. CRADDICK: That's something we wouldn't take up here at the board time. That's something you would just have to come to the staff and get that straightened out.

MR. STRUMINGHER: I see. I will point out, I'm sure you are all aware, but I will point out that the notice dated September 5th that pertains to this matter, that I think you have in front of you, says that the subdivision of this property was processed under Section 18.04.020 of the Maui County Code and as such was not reviewed or approved by the water department.

And that the owner of the second parcel, Mr. Glenn

Coryell, has maintained that the existing meter has always served his dwellings, and he has been responsible for the water bill since 1978. There was no formal assignment of the existing meter by the owners of the subdivision.

MR. CRADDICK: Again, the combination and resubdivision means there was two lots there before and there's two lots now. Only one of the two lots can have the meter, not both.

MR. STRUMINGHER: Right. Apparently when the subdivision took place, the rights to the water meter were not designated. At least that's the best of my knowledge. And that, obviously, the subdivision took place before I purchased the property, so I was not involved at that time.

MR. CRADDICK: So what you are saying is that there may be more things that have to be sorted out first, before you maybe can be determined to be the legal owner of the meter.

MR. STRUMINGHER: I see. So I guess in light of that, is there a possibility that the Department of Water Supply will grant me a new meter or an additional meter so we can both have access to public water?

MR. CRADDICK: That's the subject of the discussion here today.

MR. STRUMINGHER: I see, okay.

MR. CRADDICK: If you are just saying you are going to let the meter go to the other guy and you are putting the whole requirement for an adequate system on yourself, then as long as the system was adequate you would be able to get a meter.

MR. STRUMINGHER: I see. Well, obviously, I would like -- my primary goal is to have access to water, and I'm happy to do something toward making that -- something financially to making that happen.

As I said before, it appears to me that the requirements spelled out in this document require an expense of upwards of a couple hundred thousand dollars, which I simply

cannot do. If there's another way for me to get access to water, I think that an additional water meter can be placed on the road that's on the property that I own, that would not require the expense that's laid out here in this document.

If it's possible to do that, I would like to do that. If not, I guess I don't have much recourse. I need to have water, and currently I don't. Mr. Coryell has been using that water meter and there are several families there.

CHAIRMAN NOBRIGA: Thank you.

Is there any other questions, members? Yes, Mr. Starr.

MR. STARR: I'm not exactly sure what is being asked of us here.

MR. CRADDICK: He is asking you to -- I guess he is saying I'll give the meter to the other guy and I want a meter for my own lot, but I don't want to have to make the improvements that are required by subdivision, is my understanding.

MR. STRUMINGHER: Yeah, I guess that's fair. That's accurate.

MR. STARR: Is a motion in order, Mr. Chair?

CHAIRMAN NOBRIGA: Yes.

MR. STARR: I move to deny.

CHAIRMAN NOBRIGA: Thank you. Is there a second? Brother Kent?

MR. HIRANAGA: I'm still reading the staff report.

MS. NAGO: The staff reports were faxed to everyone.

CHAIRMAN NOBRIGA: There's a leech in the system. You need time to review the staff report?

MR. HIRANAGA: Um, a few minutes, please.

MR. STRUMINGHER: I'm sorry, I can't hear what is being said.

CHAIRMAN NOBRIGA: Mr. Craddick, you had something else to add?

MR. CRADDICK: I'll talk with you first before I say anything.

CHAIRMAN NOBRIGA: Okay. We'll call a recess, then.
(A recess was taken.)

CHAIRMAN NOBRIGA: So the subdivision has been -- after the 19 -- what year was it? 1993 --

MR. CRADDICK: No, no, the two lots were always there. The combination and the resubdivision --

MS. NAGO: I'm sorry, the room is really small, we need everyone to keep quiet. She can't get it on the record. Okay?

CHAIRMAN NOBRIGA: Sorry.

MR. CRADDICK: So it didn't create more lots than were already there. But how you interpret that, if you want to say, hey, it was a new subdivision, get on the list. That's another option too.

CHAIRMAN NOBRIGA: Apparently, he already said he is part of the waiting list for meters.

MR. STARR: Are we back in session?

CHAIRMAN NOBRIGA: We have a motion on the floor, and if Mr. Hiranaga is able to support the motion, then yeah. If not, then --

MR. HIRANAGA: I would like to let the motion die temporarily, because I have a couple more questions for the staff. What is the department's position on new water meters for Piiholo Road?

MR. CRADDICK: Again, this was a lot that existed prior to 1993. Under the guidelines that we have right now, if the system was adequate out in front, we would say they could have a meter. There's another twist in this in that they did a subdivision or combination and resubdivision of a lot and so you could strictly say, sorry, it was a new subdivision, we're not going to allow a meter for it. And that might be appropriate.

That's probably more a legal issue with corp counsel and how the county responds to that county ordinance of the combination and resubdivision of existing lots.

CHAIRMAN NOBRIGA: Yes, Mr. Starr.

MR. STARR: I see that there are two issues involved. The first issue is whether there is adequacy and we're issuing meters in that area or not. And if there's not adequacy there, then he should be on the waiting list, which I believe he is.

The second issue is that the transmission line is insufficient and that if additional meters were issued, put onto that existing transmission line, it would threaten the existing users because it would lower the fire protection along that road. So it would put other people in danger by issuing a meter without upgrading it.

I mean, theoretically, the board could spend \$200,000 to upgrade that particular line, but I don't think it's in our CIP. So the second issue is the fact that the local transmission lines are not sufficient to issue more meters, in which case we ask an applicant to bring them up to standard before we issue meters. It's our general policy.

CHAIRMAN NOBRIGA: I would like to note the arrival of board member and committee Clark Hashimoto.

MR. HASHIMOTO: I got mixed up with the time.

CHAIRMAN NOBRIGA: Sorry, yeah. Back to director Craddick.

MR. CRADDICK: Let me see here. The comment that it's not on the CIP, it is in our CIP, just not in the five-year funding range.

MR. STARR: Eventually, it will get upgraded.

MR. CRADDICK: But it's pretty far out there.

CHAIRMAN NOBRIGA: Is there a follow-up question, Mr. Hiranaga?

MR. HIRANAGA: Basically, the transmission system fronting the property is inadequate?

MR. CRADDICK: It's a 2-inch Drisco line.

MR. HIRANAGA: If it was up to standard, he would be granted a water meter based on the department's current position?

MR. CRADDICK: Yes.

MR. HIRANAGA: No further questions.

MR. STARR: I would like to remake my motion if that's okay.

CHAIRMAN NOBRIGA: Yes, Mr. Starr.

MR. STARR: I move to deny the request.

MR. HIRANAGA: I'll second the motion.

CHAIRMAN NOBRIGA: Moved and seconded. Any further discussion? The nature, again, of the denial is based on the transmission lines and accommodating the subdivision request.

MR. CRADDICK: Transmission line or distribution line?

CHAIRMAN NOBRIGA: Distribution lines. Excuse me, I stand corrected. All those in favor signify by saying "aye."
(A chorus of ayes.)
Opposed "nay."

MR. HASHIMOTO: I have to say nay because I wasn't in the discussion.

CHAIRMAN NOBRIGA: Thank you, Clark. Motion carries. Recommendation to the board shall be denial based on the condition of the distribution lines. Thank you, Mr. Strumingher, for calling.

MR. STRUMINGHER: I could not really hear what was said. Can you help me understand exactly what my next step is, or how I go about trying to get water on this property?

CHAIRMAN NOBRIGA: Our recommendation to the full board is the denial of your request for a water meter. But we would like to encourage you to continue working with the department and the engineering department to see if there is another way that they can accommodate your request.

MR. STRUMINGHER: If I make the upgrades to the distribution lines, can I then have a water meter?

MR. CRADDICK: It's probably better not to ask that question to the board, Neil, because they may make a decision on it. That's not the one before the board right now

MR. STRUMINGHER: I see. Well, thank you for your time.

MR. CRADDICK: If you ask for that, you may get an answer.

CHAIRMAN NOBRIGA: Back to item A. Request from John and Maria Siele to exchange their 1-1/2 inch meter for multiple meters.

MS. NAGO: 207 is available. If you want to recess and go into 207, it's up to you.

CHAIRMAN NOBRIGA: We're comfy, huh?

MS. NAGO: It's up to you folks.

CHAIRMAN NOBRIGA: Subsequent to the last meeting, we did ask the department for some calculations on the average and maximum use in the proposed area of a 1-1/2 inch meter versus a 5/8 inch meter. As far as -- well, other than this information, is there any rules that we follow or procedures

that we have followed in relation to exchange, a request such as this?

MR. CRADDICK: Yes.

CHAIRMAN NOBRIGA: And they are?

MR. CRADDICK: If you have usage on a meter for five years that is in excess of what the meters requested would use, we have granted the request.

CHAIRMAN NOBRIGA: Okay.

MR. CRADDICK: I'll remind you there's no rule for that, but that's in keeping with the -- I think the idea if you don't affect the system, then you can get a meter.

CHAIRMAN NOBRIGA: Based on the information provided and some simple mathematics, at the maximum, maximum total possible use per day, my calculations indicate that one 1-1/2 inch meter will use the equivalent of 8.5, 5/8 inch meter on this simple calculation. The Sieles petitioned the committee for recommendation to the board to exchange their 1-1/2 inch meter, I believe, for three, 5/8 inch meters.

With that on the table, members, is there any discussion or questions? Mr. Craddick?

MR. CRADDICK: It doesn't say this on here, but Mr. Siele's consumption is about 1300 gallons a day on the inch and a half meter, not 15,000 or anything near that.

CHAIRMAN NOBRIGA: Okay. Members?

MR. STARR: I guess, again, we're back to the adequacy issue. I assume that's -- is that the only issue, or is there a distribution line, transmission line issue?

MR. CRADDICK: No. Actually, he has fixed the system up; he's paid substantial money to fix the system up. It's just that if you give him these additional meters, obviously consumption will go up. And he is on the waiting list to get meters for this subdivision. That's all I can say.

Basically, what you are doing is letting him jump the list by giving the extra meters without actually having any usage on the existing meter.

CHAIRMAN NOBRIGA: Clark?

MR. HASHIMOTO: But actually it's an exchange. Isn't it like an even exchange, or it's not even an even exchange?

MR. CRADDICK: It's not even. He's only using 1300 gallons a day on the existing inch and a half meter. It doesn't matter if he has a 20-inch meter, if you are only using a thousand gallons a day, I can't say you can have a bunch of small meters that you know the consumption may be -- the average consumption on a 5/8 inch meter is --

MR. HASHIMOTO: 1700.

MR. CRADDICK: 1700. He is not even using just barely --

MR. HASHIMOTO: May I ask Mr. Siele, what are you doing with the land right now? You are not living on the land?

MR. SIELE: We had to sell our house and move off the land because we did not have the ability to keep it going, because we have not been granted the water that Mr. Craddick has promised us through the years.

MR. HASHIMOTO: The 1300 gallons a day --

MR. SIELE: -- is because we're not living there at the time. The meter, I would think, is granted on potential use. Again, this was discussed in other meetings that if an inch and a half meter -- if I give an inch and a half meter in public business, I would give it out as far as what the potential is of the meter, and that's how I would base my decision on giving out meters.

If I'm looking to save you 8. times the amount of potential use on it, there's only a basic decision that could be made quite easily.

MR. CRADDICK: One more thing.

CHAIRMAN NOBRIGA: Fine.

MR. CRADDICK: If the board makes a decision that potential use of the meter is what you are going to do, there are many other large meters like this Upcountry, some waiting for fairly large multifamily type buildings that are just waiting for this to occur. So be very careful in your decision on this one.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I have a problem with allowing issuance of meters while there are still people -- while there are still other people on the waiting list. Just in fairness of allowing anyone to jump the queue for new meters, to me, is wrong. I know we have been all around on that. For that reason, I'll be voting against, because I just don't feel that anyone should be allowed to sort of jump the queue Upcountry.

CHAIRMAN NOBRIGA: Mr. Siele?

MR. SIELE: Number one, to address Mr. Craddick, as a businessman and as a director of the Board of Water Supply, I don't understand how you can issue someone a potential use and then be worried that you cannot give it to a person, especially when the person pays the price for that potential use. No one purchases an inch and a half meter to put, what you said, 1300 gallons a month it is used for --

MR. CRADDICK: 1300 gallons a day.

MR. SIELE: Whatever the use was. It works out to millions and millions of gallons of savings. And it is not -- I'm nervous this morning, I apologize. It's not a matter of meters, Mr. Starr, it's a matter of savings to the public and to the water department.

The potential use that I could use, if you read the paper, is up to 45,000 gallons per day. So if I was to go into the full use, if I move on that property and wanted full use, that's how much use I would have on that one meter. Besides the fact that I was already promised by Mr. Craddick two other

inch and a half meters, which is another issue. So I see that as quite a savings to the county and to the public.

CHAIRMAN NOBRIGA: Thank you.

MR. SIELE: It's strange to be in front of a different audience each time with everyone not knowing the facts. I know a few people here know the facts, but there are a lot of people -- this goes back nine years. This whole thing.

MR. HIRANAGA: Question.

CHAIRMAN NOBRIGA: Yes, Mr. Hiranaga.

MR. HIRANAGA: When was the subdivision application initially submitted?

MR. SIELE: '93.

MR. CRADDICK: He is pretty high up on the list. If we start through the list, he is one of the first.

MR. HIRANAGA: How does this relate to detrimental reliance?

MR. CRADDICK: He did a family subdivision, he made the improvements. And I believe got the extra meters for the family subdivision; didn't you?

MR. SIELE: I got the two, 5/8 meters. I did not receive the meter I was told I would receive.

MR. CRADDICK: He had the one, inch and a half, then he got the two, 5/8 inch meters.

MR. HIRANAGA: So that subdivision was completed?

MR. CRADDICK: Completed. And he is now resubdividing one of the larger lots.

MR. HIRANAGA: When was that application submitted?

MR. CRADDICK: I don't know.

MR. SIELE: Right now there's not a subdivision application in at this time. Only because of the fact that if you have been through the subdivision process, it takes thousands of dollars just to get that far before it goes in front of the water board, and knowing that the water board is going to turn you down anyway, it makes absolutely no sense.

MR. HIRANAGA: The application in 1993 was for a three-lot subdivision which was granted?

MR. SIELE: It was granted to me at that time, but previous to -- which was forgotten because there have been many other meetings. The reliance came from -- previous to this. I was -- at the time when I originally set down for subdivision it was to be for 11 lots. This was totally discussed with Mr. Craddick at that time, that it was going to be 11 lots.

We sized the lines coming into the subdivision for the 11 lots and was told at that time to go to three meters. Mr. Craddick from that time had told me many times, Go for the rest of your improvements, the water is on the way. He also told me that the latest I would receive the rest of my water would be in 1996.

I met with Mr. Craddick many times at many meetings, and Mr. Craddick at those times said, You will have your water, it's coming. That's where the reliance comes from, from many, many meetings. There's been much money put into the project and it has never happened.

MR. HIRANAGA: After your three-lot subdivision was granted final subdivision approval, you did not subsequently submit a new application?

MR. SIELE: No, but I sat down with the water department on numerous times.

MR. HIRANAGA: Do you have anything in writing that provides you this reliance?

MR. SIELE: Yes, I do. I have the minutes from the last -- from the first meeting, stating where Mr. Craddick admits he did say these things.

MR. HIRANAGA: That he was going to grant you three additional meters?

MR. SIELE: Not that he was going to grant me additional meters, but that he told me that the water was coming. There's a letter stating that the water would be no later than 1996. This is really -- when you say is there letters to prove this, not only is there letters but there's phone conversations.

The man has misled me so many times. I mean, we'll be in a middle of a meeting, we're trying to accomplish something and he will be whispering in my ear, Why aren't they giving you the water? We have the water. What kind of department is this? How do I -- this has been happening for year after year after year. He'll tell me, Fight the department, we have the water. Take it up against them.

There's a lot of matters here. There's also matters that were discussed where I was called up and said, Please don't bring these matters up, they would be -- it would cost him his job and would be an embarrassment to the department. Maybe they will cost him his job; maybe it will be an embarrassment to the department, but there's a lot of things that are going to have to be brought up from this. There has to be a responsibility factor.

MR. HIRANAGA: When was the three-lot subdivision granted?

MRS. SIELE: '94.

CHAIRMAN NOBRIGA: Yes.

MR. STARR: Where is the letter that you referred to?

MR. SIELE: Letter referring to what?

MR. STARR: You said there was a letter.

MR. CRADDICK: No, he said he prepared minutes of the meeting.

MR. SIELE: I have minutes from the last meetings.

MR. STARR: Those were board meetings?

MR. SIELE: Yes.

CHAIRMAN NOBRIGA: Committee meetings.

MR. SIELE: I'm not sure of the name of the particular meetings.

CHAIRMAN NOBRIGA: I would like to ask Mr. Fukushima if you could add some light on the subject for us.

MR. FUKUSHIMA: I'm not sure if I can add any light to the person's request. Again, our office would caution the board or this committee in considering this particular request in the absence of any rule. There appears to be no standards that could be applied or that have been adopted by any agency with respect to the exchange of meters.

We believe that absent any standards, there is the appearance that there's unfettered discretion on the board to do anything. And agencies making decisions, the law is very clear that in cases of the exercise of discretion, that discretion should have some bounds, that discretion should be guided by standards, and in this case there are no standards.

And again we would caution the committee in taking any action on this without any standards in place in the form of a rule.

CHAIRMAN NOBRIGA: Mr. Hashimoto and then Mr. Starr.

MR. HASHIMOTO: Has there been any cases where meters have been exchanged?

MR. CRADDICK: Yes, and that's the standard that I said previously what we have done. If you got usage on your meter for five years that equals or exceeds what we would expect from whatever number of meters you want, we would approve it. Because there's no effect on the water system.

Now, we have seen that people who have done that, we probably need to go back and look at those ones that we have done, because even that may not be working. Because we noticed some rather huge looking monstrosity of houses on some of those lots with the 5/8 inch meter; but be that as it may, that's not

the issue here.

But again, if you are going to say that simply because he is not using the meter that he has for ag which he is zoned for, that he can build a bunch of houses on there and then use that amount of water that you would normally use for ag is -- we've never been in the business of trying to put ag out of business Upcountry. If they want to use it for ag and they start using it and they show some consumption that's actually being used, they are using it.

But to say that you are going to allow all these houses to go on the property and you know there's going to be water use at that point, is an effect on the system. If for whatever reason no farming goes on there -- I don't know what the land looks like or anything like that -- for whatever reason no farming goes on, that reason is there.

CHAIRMAN NOBRIGA: But that means you're applying one different set of standards to Mr. Siele versus other people that you've handled before.

MR. CRADDICK: No, we're not.

CHAIRMAN NOBRIGA: We're going to go back to Mr. Fukushima's comment about we need to seriously look at some rules. Mr. Hiranaga?

MR. HIRANAGA: Personally, I have difficulty with potential usage. I think it should be based on actual usage. Because the usage is not free; you still have to pay for the gallons of water that you use. So to say that he has the potential to use X amount doesn't mean he will, because it's not -- the increase in usage will cost him money.

He could have basically opened up his meter for the past five years and let it run 24 hours a day, then he would have qualified for the meters he wanted, but it would cost him money to be running that water.

On the detrimental reliance, the detrimental reliance is based on any representations made to individuals prior to 1993, which influenced them to continue or to commence development after 1993, is that the department's position?

MR. CRADDICK: Basically, yes. In this particular case, right, he did have -- I guess when he came into the

property, there was a plan to do many, many lots on there, but I believe he bought the property prior to the Kula rule lapsing. And prior to the Kula rule lapsing, you could only do the family subdivision. We told him that. If you want to subdivide, you can only do a family subdivision. So he did it.

Now, beyond that, I don't believe any other representations were made. I told him yes, we are trying to get additional source. I told him about Kahakupao; I told him about the Haiku well; I don't think at the time we knew what was going to happen with the Hamakuapoko well. He is right in that, that I did tell him we are working to get additional source on line.

But I don't believe I ever represented when it will -- inadequacy will be taken off. And that is something that I have always maintained. He has to look at his own financial resources to make his own determination on what can be done or can't be done.

And I probably did tell him that he may have some rights in light of the current state of the system, that if he petitioned the board from that angle, he may be more successful than this one. But beyond that, I don't believe we have ever given him any false indication of when the system would be adequate to do what he wants to do.

CHAIRMAN NOBRIGA: Mr. Hiranaga?

MR. HIRANAGA: The distribution system fronting the property is up to standard?

MR. CRADDICK: Yes, he fixed it up, yes.

MR. HIRANAGA: I guess my position would be that the burden of proof that there was detrimental reliance lies upon the applicant. He would have to convince the board that there was detrimental reliance. I guess my personal opinion, it couldn't be hearsay; it would have to be official written communication on official department letterhead with the director's signature on it.

MR. CRADDICK: In this case, there couldn't be any detrimental reliance, because we have --

MR. HIRANAGA: That's why I say the burden is upon the applicant to prove it.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I have a motion to make.

CHAIRMAN NOBRIGA: Let's ask if there's any more discussion.

MR. HASHIMOTO: Just curious, Mr. Siele had to make improvements to run the line to his property to make it to comply?

MR. CRADDICK: To get the three-lot family subdivision, yes.

MR. HASHIMOTO: That was quite a cost.

MR. SIELE: Yes.

CHAIRMAN NOBRIGA: Mr. Siele, you have other information you want to share with the committee?

MR. SIELE: Yes. The gentleman just asked for proof. This is from the board meeting held 5/14/02, where Mr. Cravalho asked Mr. Craddick a question: Were assurances given to the gentleman as potential availability by a period of time, by a certain date and time? That's all.

Mr. Craddick: Well, I did tell him when I thought water would be in on line and it is on line.

These are Mr. Craddick's words, then he just said that he never said anything.

MR. CRADDICK: What we're talking about is system adequacy. We're talking about the system adequacy, and I did say that, but --

CHAIRMAN NOBRIGA: We're talking --

MR. SIELE: Mr. Craddick, you have an awful gift for playing with words and you do it well; but if people can't see through it by now, if the board can't see through it, something is definitely drastically wrong.

CHAIRMAN NOBRIGA: The matter before us is a request for an exchange of a 1-1/2 inch meter for multiple meters. Mr. Starr?

MR. STARR: Yeah, I see this as an attempt to jump the queue on issuance of meters, and we're not here today to discuss the adequacy issue. In that light, I would like to move that the recommendation be to deny the request.

CHAIRMAN NOBRIGA: It's been moved. Is there a second?

MR. HIRANAGA: Second.

CHAIRMAN NOBRIGA: Moved and seconded. Any further discussion? I myself have not yet been satisfactorily swayed on that position, but it is a democratic meeting and the ayes will have it, I guess. All those in favor of the motion signify by saying "aye."
(A chorus of ayes.)
Opposed?

MR. HASHIMOTO: I oppose.

CHAIRMAN NOBRIGA: You oppose?

MR. HIRANAGA: There were two ayes.

CHAIRMAN NOBRIGA: Two and two, then. I no can vote, yeah? Shoot.

MR. FUKUSHIMA: If your vote will make a difference, you vote.

CHAIRMAN NOBRIGA: My vote would be a nay, which would be a tie, so it won't count.

MR. FUKUSHIMA: It does make a difference.

MR. CRADDICK: No action would be taken.

MR. FUKUSHIMA: No action would be taken.

MR. HIRANAGA: You can open the floor to more motions.

MR. FUKUSHIMA: That's an alternative.

CHAIRMAN NOBRIGA: The vote is 2 to 2. There's no action to be taken at this time. The matter is deferred to our next meeting.

MR. HIRANAGA: You could open it.

CHAIRMAN NOBRIGA: I could, yeah, the floor is open for further discussion.

MR. HIRANAGA: Or motions.

CHAIRMAN NOBRIGA: Motions or whatever have you.

MR. HIRANAGA: I was just following the procedure.

CHAIRMAN NOBRIGA: No, no problem. I don't see -- I don't see the exchange of meters as being a detriment for the area in which the Sieles are in. So that's why I voted nay.

MR. HASHIMOTO: I feel the exchange of meters for all the improvements he put in and he complied with everything else, I don't think an exchange would be a detriment.

CHAIRMAN NOBRIGA: I also hold Mr. Fukushima's comments near and dear, as in order before us to take a good try at solving this question, we should have a rule so that everybody is treated equally from here on in and not one guy is one way and the other guy is something else.

MRS. SIELE: I wanted to bring that up about the ruling. If there's no ruling, how can anything be said against it, and by the time a ruling is put in place, where do we stand since ours was applied for long before the ruling was in place? I don't understand the legality of it. I don't understand how everyone can come up with a decision when there is no ruling. How can that be legal? Right now it doesn't make sense.

CHAIRMAN NOBRIGA: I'm not an attorney and it don't make sense to me either, but anyway --

MRS. SIELE: How long do we wait for a ruling to come in to being?

CHAIRMAN NOBRIGA: We should be moving rapidly through that.

MR. HASHIMOTO: If we create a rule, do we have to go to public hearing?

MR. FUKUSHIMA: You certainly do.

CHAIRMAN NOBRIGA: Yeah, that whole rigmarole. Yes, Mr. Craddick.

MR. CRADDICK: If this matter is deferred to the next committee meeting, would you want a listing of all the inch and half meters that are unused Upcountry so you get an idea of the overall impact of the decision?

Because there are substantial numbers -- under the Kula rule on the lower line, for a period you could get an inch and a half meter. And I suspect people went out and got these inch and a half meters with no intent to do anything until they could split them up into more meters. And there's a bunch of meters out there that have never been used since the '80s when they were put in.

CHAIRMAN NOBRIGA: I'll let you know what we want for the next meeting.

MS. NAGO: This is deferred to the next meeting?

CHAIRMAN NOBRIGA: Yes. Item C, Communications 01-22, request from Thomas Welch on behalf of John Elder for a waiver of the fire protection requirements.

MR. SIELE: Do I have a chance to say something?

CHAIRMAN NOBRIGA: Sure. Excuse me.

MR. SIELE: What does that mean to me now?

CHAIRMAN NOBRIGA: You are not denied, but you are not approved.

MR. FUKUSHIMA: There's no recommendation.

CHAIRMAN NOBRIGA: There's no recommendation being made to the board.

MR. HIRANAGA: I have a question for corp counsel.

CHAIRMAN NOBRIGA: Sure.

MR. HIRANAGA: If the committee is unable to submit a recommendation to the board, does the applicant have the opportunity to go before the full board or does he have to wait until the matter comes out of committee?

MR. FUKUSHIMA: Well, I believe it would depend on what this committee wanted to do. If this committee wanted to send it back to the board with no recommendation, that's an alternative also.

CHAIRMAN NOBRIGA: We should do that.

MR. HIRANAGA: How many members on this committee?

CHAIRMAN NOBRIGA: Four.

MR. HASHIMOTO: You got Orlando; right? But he's not here.

CHAIRMAN NOBRIGA: I don't know.

MR. HASHIMOTO: So five.

MR. HIRANAGA: Mr. Chairperson, I have no concern or difficulty with referring this to the full board, because I think Mr. Siele needs closure.

CHAIRMAN NOBRIGA: We'll recommend it to the full board if there's no objection.

MR. HIRANAGA: With no recommendation.

CHAIRMAN NOBRIGA: With no recommendation. It will be brought out at the next meeting before the full board.

MR. CRADDICK: Is that a motion?

CHAIRMAN NOBRIGA: No, I just said it and that's it. Thank you.

Item C. Mr. Welch. At the last meeting we heard Mr. Welch describe the request in the area and one pool in the backyard and all kinds of stuff, and then we learned that the neighborhood was wrought with problems on fire protection. That's why we have Mr. Welch coming back on behalf of Mr. Elder.

MR. STARR: Fran, may I borrow your paper on this quickly?

MR. NOBRIGA: Anybody need to hear Mr. Welch explain the situation again? I'm sure you'd love to do it, though.

MR. CRADDICK: Are you aware of the guy that is straight in the street, you are down the street and the guy that's straight in?

MR. WELCH: No.

MR. CRADDICK: You may want to get together with him because I think he is bringing the line in, straight in to where the road T's off, which is more than half the way.

MR. WELCH: Really?

MR. CRADDICK: Yes.

MR. WELCH: The cost of doing it was -- 2600 lineal feet is about a half mile that we were going to have to put in a 6-inch or 8-inch line for fire flow and it was going to cost \$450,000.

MR. CRADDICK: He is doing about half of it.

MR. WELCH: So he is doing about \$250,000 worth. All we're trying to do is to do a small barn that is going to house his agricultural equipment and his potting, and put potting facilities, storage of fertilize seed and other things. It's an agricultural function.

The reason -- and it's not much of a building. And he would not -- even if it's going to cost \$250,000, it won't be worthwhile. The reason that the fire flow requirement is triggered here is because it's the third structure. The second structure, however, is only an open gazebo for recreational purposes by his pool, it's worth probably under \$5,000.

So we're glad the neighbor is bringing it in, but its just not worth it to spend a quarter of a million dollars on this barn.

MR. CRADDICK: Actually, it's two-thirds of the way he was bringing it in, not half. Two-thirds. So as we talk, the price is dropping.

MR. WELCH: It's a hundred -- now let's call it a hundred thousand. We're suggesting that the fire department has agreed that the on-site fire protection, as a practical matter, is sufficient and that the public interest will be protected.

Now, Captain Bal last time questioned that. There's a letter in your file from Captain Niemczyk that says that he thought it was adequate and met the requirements as far as the fire department was concerned.

Captain Bal wasn't so sure and wanted to look at it again. I believe Captain Bal has been talking to the Elders and so forth. I think that he's now satisfied, but I don't know if he has followed up with another letter at this point. But as far as we're concerned, the record is clear that the fire department has a written submittal approving it.

CHAIRMAN NOBRIGA: Any questions, comments, members? Mr. Starr?

MR. STARR: Yeah, I'm looking at the letter from Captain Niemczyk. I remember what Captain Bal had said at the last meeting -- oh, there's another one. I just want to be sure that the letter was in relation to a new structure, not that it was sufficient for what was existing.

MR. WELCH: No, it was. For the record, the Elders met with the fire department with specific reference to the construction of this proposed barn of approximately 1680 square feet in size.

CHAIRMAN NOBRIGA: Yes, Mr. Craddick.

MR. CRADDICK: This barn is not a dwelling; right?

MR. WELCH: Correct. It is not a dwelling.

MR. CRADDICK: Under the rules, the rules say two dwellings are exempt from fire requirements. No structure whatsoever is exempt from fire requirements. The board, I believe, passed a resolution sometime back, saying they would view the second structure as long as it didn't have any greater fire requirements in the dwelling as a dwelling.

That just -- resolution of the board, but technically speaking, neither the gazebo nor this would be waived from the fire requirements, by strict application of the rules.

CHAIRMAN NOBRIGA: Mr. Fukushima, could you translate that for us, please?

MR. FUKUSHIMA: Well, the clear language of the rule, as I read it, refers to an exemption in, I believe, urban and in rural, residential, business, industrial, apartment, duplex, commercial, airport and hotel districts. There is an exemption for two dwellings. I would presume that this property is within one of those two areas.

MR. WELCH: I thought it was in agricultural districts --

MR. FUKUSHIMA: Excuse me, those are fire hydrants.

MR. WELCH: It goes on to permit standpipes.

MR. FUKUSHIMA: But the clear language is two dwellings, the first two dwellings would be exempt, rather than structures.

MR. WELCH: Correct.

MR. FUKUSHIMA: And there is a difference between a structure and a dwelling, I'm sure Mr. Welch would concede to that.

MR. WELCH: I would not argue with that.

MR. FUKUSHIMA: I'm just wondering if it's perhaps possible to -- strike that.

That's all I can say, is that's what the rule says. It exempts the first two dwellings from fire protection requirements.

CHAIRMAN NOBRIGA: Okay.

MR. FUKUSHIMA: In this case, we do not have two dwellings; we have one dwelling, one structure, and one proposed structure.

CHAIRMAN NOBRIGA: So in light of the rule being two dwellings and we have only one dwelling, does this matter really need to take up this body's time?

MR. FUKUSHIMA: Well, he is asking for an exemption from fire protection requirements. My only problem, and Mr. Welch can correct me if I'm wrong, is whether in fact it's part of a subdivision, and I believe that the answer would be no. The board and this committee has the authority -- or this committee has the authority to recommend waivers from subdivision requirements.

But as we reminded this board on numerous times in the past, that we have real problems and we want to caution this committee again on appeals from -- in this case, I'm going to characterize it as an appeals from the director's decision which there is no rule in place to handle these types of appeals. Appeals from subdivision requirements we believe are appropriate and they are provided by rules.

But again, we want to caution this committee on considering appeals from director's decisions where there are no standards for this board to apply in reviewing the director's decision.

CHAIRMAN NOBRIGA: Mr. Welch?

MR. WELCH: I would like to say this about that. I am a great believer in the rule of law and in complying with the rules and applying the rules in accordance with their terms, and in this case, this kind of comes within the rule and it kind of doesn't.

If you talk about subdivision, you can grant a discretionary departure from the strict rules on fire protection if it's in connection with a subdivision. This lot is part of a subdivision.

And what this person is doing is merely building out the destiny of this lot within a subdivision which is -- which was -- it's permitted by the zoning ordinance. It is for an agricultural use that is consistent with the -- and in furtherance of the goals of the agricultural district, it is within an agricultural subdivision which contemplates those uses.

And to say that just because he is not technically a subdivider, that he can't come under that discretionary rule which allows the board to depart in a common sense situation where the public interest is protected, and there's no reason, real regulatory reason to apply the rules strictly, that he should be entitled to come under that.

Now, if Howard says, Well, you know, maybe it is a subdivision; maybe it isn't. But we'll say it isn't. If it isn't, you have no basis, no rule, then, for applying common sense.

Now let's look at the common sense deal here. The rule allows two full dwellings to be exempt from the requirement. The rule also says that if you are building a third dwelling, it is a subdivision -- automatically within the definition of subdivision.

But where these are not technically dwellings, the rule doesn't entitle -- not only doesn't entitle the owner to an exemption for the second structure, the third structure does not trigger the requirements for a subdivision. Now, does that really make sense? What is the difference between a residential structure and a barn to park tractors in?

Certainly, there's no increase in water use; certainly, there's no increase in fire protection requirements or fire risks for the neighborhood. The public is perfectly

well protected one way or the other. And the board is saying well, we just can't help you.

Well, the effect of this is to cause a property owner who is just building a barn which is not creating any regulatory problem, not creating any risks, not really going against the grain with effect to going against regulatory goals of the water board, and you are saying he can't build this thing out without having to upgrade the water for the entire district.

MR. CRADDICK: No, only for his thing they are bringing it down to his house.

MR. WELCH: It's the entire district because it's inadequate for the entire area.

MR. CRADDICK: No, it's not. It's only --

CHAIRMAN NOBRIGA: We're drifting away, Mr. Craddick, from the points at hand.

MR. WELCH: I would suggest that -- couple of things. One, I think legally a common sense interpretation of the subdivision -- of the rule allowing a discretionary departure from the rule or modification where the public interest is protected should be applied in this case.

It's close enough to a subdivision. It's part -- even though what is actually happening is not a subdividing act, it is in connection with a subdivision. And the rule is pretty broad. It just says in connection with a subdivision or in the subdivision context. We're talking about improvements here that should have been put in when the original subdivision was put in. They weren't for whatever reason, but they should have been. So we would request that you consider that.

If the answer to that is no, then this is the rules committee, I implore you to adopt a rule to allow the water board to be able to conduct its business in a common sense way.

And I would like to say one other thing while I have the pulpit here. This business about telling people that they have to spend a quarter of a million dollars to bring fire flow to a situation where they are doing something like a consolidation, resubdivision or changing a boundary with a

neighbor or something like that, and even rules where you are denying meters for people, even in the Siele case, the way -- I'm really preaching now and I apologize in advance.

But the way this looks is the citizens of Maui that are property owners that are affected by this, and sure there are people that are antidevelopment and so forth, but the people are saying to themselves, My God, we're taxpayers, it's the duty of the water department and the water board to provide us with water and fire protection and to accommodate reasonable growth.

Why should in an individual case the whole thing fall on the individual property owner. I would think that at any time you discuss a case like the Siele case or turn somebody down, you do it in the context of saying yes, but help is on your way. Because that's your duty. Anyway, that's not our case and I apologize for that.

CHAIRMAN NOBRIGA: Thank you, Mr. Welch.

MR. WELCH: Thank you.

CHAIRMAN NOBRIGA: It was my view that the guy like build one barn, the rules says dwellings -- he don't have two dwellings, so there's no reason for us to even look at waiving fire protection because there's no two dwellings. So the guy can build a barn.

MR. WELCH: He can build a barn?

CHAIRMAN NOBRIGA: That's where I was headed, but try something else here.

MR. STARR: I have a different view on this, and I have actually been through this one personally myself and it's not really fair when you are trying to build a barn. But the real issue here is fire protection, and he is willing to create his own fire protection, which the fire department is happy with. So if they say that that's good enough for them, it ought to be good enough for us.

CHAIRMAN NOBRIGA: Exactly.

MR. STARR: I will be willing to make a motion to

that effect if we're at that point.

CHAIRMAN NOBRIGA: Sounds good. So moved.

MR. HIRANAGA: More discussion, please.

CHAIRMAN NOBRIGA: Oh, yeah. Is there a second to the motion?

MS. NAGO: What's the motion, please?

MR. STARR: The motion is that we recommend a waiver of standard fire protection, and in light of the fact that there is a fire protection being provided and we also would want to have a proper indemnification and --

MR. CRADDICK: Is that with insurance?

CHAIRMAN NOBRIGA: Leave it at that for now. Is there a second?

MR. HASHIMOTO: Second.

CHAIRMAN NOBRIGA: Discussion?

MR. HIRANAGA: I guess the letters referred to from the fire department does not specifically state that his on-site system is sufficient to satisfy the requirements of the fire department for the third structure. It just quotes fire flow.

So I would hope to have a more specific letter addressing this specific request of Mr. Elder be addressed by the fire department since we're talking about fire protection. All they are quoting is gallons per minute needed to fight a fire in an agricultural district.

MR. WELCH: Excuse me, Kent, did you see the letter of December 1, 1999?

MR. HIRANAGA: Right.

MR. WELCH: This one says the fire protection provided is adequate for use by the fire department and for the

Department of Fire Control. And then the February letter was a follow-up letter to explain why they thought it was adequate.

MR. CRADDICK: Understand this is for the gazebo.

MR. HIRANAGA: This does not specifically address --

MR. STARR: It's for the property.

MR. HIRANAGA: It does not specifically address the request for a third structure. These are general statements.

MR. WELCH: We'll provide that to you. We have been talking to Captain Bal and we can do that.

MR. HIRANAGA: The other thing is -- I would appreciate that. In this letter from David Craddick to William Garvin dated April 13th, which is No. 32 in your packet, could you expand on this, the first and second dwelling exemption has been expanded to include the first or second structure on the property that would not exceed the fire flow demand of a typical dwelling unit in the area. Who expanded that?

MR. CRADDICK: That's what I said, the board made a resolution saying they would view the second structure as a dwelling if it didn't have any greater fire requirement than a dwelling.

MR. HIRANAGA: Mr. Fukushima wishes to comment.

MR. FUKUSHIMA: No, I don't wish to comment. I just want to say that it's difficult to amend the law with a resolution and there is a definition for dwelling unit contained in the board's own rules. And I find it highly unusual that by resolution the board purports to waive a portion of its own rules.

The resolutions certainly do not have the force and effect of law. The resolutions are certainly down the list in the hierarchy between statutes, ordinances. Rules and resolutions come way down. So again, I find it a little unusual that the board would take that sort of action in redefining their own rules which state something entirely different.

MR. CRADDICK: Another thing is, too, I don't know whether the resolution was ever in a written form. It was just something in passing at one of these types of discussions going on right now at the board. Except back then it was the whole board and they just said shouldn't we view these as these things, and I don't believe it ever actually got written under the hard written form of a resolution.

CHAIRMAN NOBRIGA: Mr. Hiranaga?

MR. HIRANAGA: Why are you including that statement in the --

MR. CRADDICK: I just want to make sure you're aware that's what we've been doing since the board said that. From the sounds of things from corp counsel, we'll take his advice and we're going to stop doing that.

MR. HIRANAGA: How long have you been doing that? When was the resolution made, approximately?

MR. CRADDICK: I believe '94, '95, somewhere around there.

MR. CHANG: Somewhere around there. I don't recall.

MR. CRADDICK: Yeah, it's been quite a while.

MR. WELCH: Why don't you legitimize it by adopting or recommending the adoption rule?

MR. CRADDICK: The only thing I would do, getting rid of the two house exemption and just say you have to have an adequate system for whatever you want to do and that's that.

CHAIRMAN NOBRIGA: Any further discussion?
Mr. Hiranaga?

MR. HIRANAGA: Mr. Welch, regarding the size of the structure that's been approved by the planning department, they don't consider it a second dwelling?

MR. WELCH: That's correct. It's not a dwelling.

MR. HIRANAGA: You submitted a farm plan? I'm not sure how the new ag --

MR. WELCH: I don't think you have to if it's a farm building. This is not an attempt to get around -- this is not a phony dwelling, I assure you of that. This is what it is. The applicant is telling the truth and he does have an extensive agricultural operation there and he uses tractors under tarps and he needs the space, and it's a profitable operation.

MR. HIRANAGA: It still goes before the planning department for approval?

MR. WELCH: It doesn't have to under the ag bill. He just gets a building permit, and once you sign off, then everything else is squared away.

MR. FUKUSHIMA: If I can, I believe if it's a structure accessory to the farm operation, then it would be a permitted structure.

MR. HIRANAGA: Who makes that determination, public works?

MR. FUKUSHIMA: I think in -- planning department.

MR. HIRANAGA: The planning department does review?

MR. FUKUSHIMA: I'm not sure -- let me step back and say I don't know.

MR. WELCH: I think land use and codes.

MR. FUKUSHIMA: Land use and codes certainly does review all building permits, but they may be asking for recommendations or review by the planning department with respect to these types of accessory dwellings. Since --

MR. HIRANAGA: Or accessory structures.

MR. FUKUSHIMA: Accessory structures. -- since

that's part of the zoning ordinance which is administered by the planning department.

CHAIRMAN NOBRIGA: Mr. Hashimoto?

MR. HASHIMOTO: If we get a current letter from the fire department, I wouldn't hesitate to approve it. You need a farm structure to store equipment, tractors, and supplies, and I realize that.

MR. HIRANAGA: Yeah, a letter specifically addressing the request versus general statement on fire protection needs.

MR. STARR: Can we amend my motion that such a letter will be provided?

MR. WELCH: The recommendation would be conditioned upon the provision of the letter. We'll be happy to do that.

CHAIRMAN NOBRIGA: Second to the amended?

MR. HASHIMOTO: Second.

CHAIRMAN NOBRIGA: Any discussion on the amendment?

MR. HIRANAGA: Question. So Mr. Elder could theoretically get a second dwelling beyond this if he meets fire protection requirements?

MR. CRADDICK: As Howard said before, this is a service request, there's no exemption at all for structures whatsoever. If he came in for the dwelling -- I don't know. We would have to get advice from corp counsel.

MR. FUKUSHIMA: If he comes in with a dwelling, according to the rule, the first two dwellings are --

MR. HIRANAGA: As long as he meets the fire protection requirement?

MR. FUKUSHIMA: The first two dwellings are exempt from any fire requirements. That's contained in the rule. And

again, that's why we have been urging the board for the last two years to adopt the process where these types of appeals can take place. I'm hopeful that that rule would be approved very shortly.

MR. STARR: Recall the question.

CHAIRMAN NOBRIGA: Any further discussion on the amendment?

MR. HIRANAGA: Question.

CHAIRMAN NOBRIGA: Yes, Mr. Hiranaga.

MR. HIRANAGA: If Mr. Elder were to remove the gazebo, would he then not be required to come in before the board?

MR. CRADDICK: If the board does this, what's going to happen is that the guy who is putting in the line fixing up two-thirds of the way obviously is not going to do it anymore.

MR. HIRANAGA: It's irrelevant.

MR. CRADDICK: No, I don't know if it is irrelevant. What you are doing is, simply because people come into the board and ask for waivers that they don't have authority to get from the board, and the board says yeah, you can have the waiver. I mean, what does that tell the guy who is spending the -- whatever it is -- 175,000. It may cost another 25 to make the last little bit of a way down to this other guy's house. What does it tell that guy? Hey -- you know.

MR. WELCH: It's okay. So be it. Common sense is common sense.

MR. HIRANAGA: The answer to my question is?

MR. WELCH: Yes.

MR. HIRANAGA: If he took the cabana down, he would not have to come before the --

MR. FUKUSHIMA: No.

MR. HIRANAGA: He would or he would not?

MR. FUKUSHIMA: Again, let me repeat myself. The rules, this board's rules exempt the first two dwellings. I can't comment on this resolution. I don't want to comment on what the department has been doing in the past with respect to second structures. I believe the resolution that was referred to by the director really didn't mean anything.

MR. HIRANAGA: I guess being relatively new on this board, we really need to try and eliminate these types of confusions as far as interpretations by the department on what the will of the board is. I'm sure we'll address that in the rule making process. I'm sure this has affected a lot of people in the last seven years.

CHAIRMAN NOBRIGA: Any other discussion on the amendment to have Mr. Elder provide a specific letter from the fire department outlining acceptable to fire requirements, anyway, whatever have you, any other comments? Ready to vote? All those in favor of the amendment signify by saying "aye."
(A chorus of ayes.)

Opposed?

(No response.)

Back to the main motion as amended. Any further discussion?

MR. STARR: Just that the indemnification wording, I know there's some standard wording that's been used in similar cases. Is corp counsel comfortable with taking responsibility for creating indemnification language after the fact?

MR. FUKUSHIMA: I don't understand that question.

MR. STARR: The motion is vague about what kind of indemnification we need, and we do feel we need indemnification, can corp counsel handle the job of --

MR. FUKUSHIMA: Of course we can.

MR. HIRANAGA: Question.

CHAIRMAN NOBRIGA: Yes.

MR. HIRANAGA: Why is there a need for indemnification if it's the board's position that this is not a dwelling? Why do we need indemnification?

MR. STARR: Because the applicant is providing the fire flow and if that -- say he decides after a while to leave the swimming pool empty and not have the fire flow, people shouldn't be able to come back and sue the board; they should sue him for not maintaining what he was required to maintain. He's holding us harmless. Since we're not building his fire protection, he is building his fire protection.

CHAIRMAN NOBRIGA: Any further discussion on the motion as amended?

MR. HIRANAGA: I would just like an opinion from the corp counsel whether the indemnification requirement is justified. You don't need to provide the opinion now.

MR. FUKUSHIMA: I can. Anytime we can be indemnified or the board can be indemnified or the county would be indemnified, we would support that. We would also support a \$10 million insurance policy, but I'm not sure if the committee or the board is going to be willing to require that.

As an attorney, you want to be protected as much as you can from any potential liability. You may not see it today but you don't know what is going to happen tomorrow. So as an attorney, we would like to see as much protection for both the county and our clients as we can.

MR. CRADDICK: Especially when you are waiving rules we don't have the authority to waive.

CHAIRMAN NOBRIGA: Any other comments or questions?

All those in favor signify by saying "aye."

(A chorus of ayes.)

Opposed "nay."

Motion carries. Recommending to the board that a waiver be granted providing a fire -- specific fire flow letter

is received from the fire department.

This meeting will be recessed for ten minutes and reconvened in room 207.

(A recess was taken.)

CHAIRMAN NOBRIGA: The rules committee meeting of ten o'clock will come to order. This is the regular scheduled meeting duly noticed for Thursday, September 20th at 10 a.m. The rules committee meeting scheduled for 10 a.m. is now in recess.

MR. STARR: That makes it real clear.

CHAIRMAN NOBRIGA: We're waiting for Mr. Williamson who is reparking his car. Reconvene of the reconvened meeting of the reconvening. We're reconvening the September 11th, 9 a.m. meeting back to order.

Taking up the agenda as previously posted, item 3, approval of minutes of August 10, 2001. Motion is in order for receivment (sic). Is there a motion to receive the minutes of August 10th of the rules committee meeting?

MR. STARR: I move that they be accepted, and subject to a 30-day review period.

MR. HASHIMOTO: Second.

CHAIRMAN NOBRIGA: Moved and seconded.
Mr. Fukushima?

MR. FUKUSHIMA: If I may, I generally don't want to correct minor errors, but on page 7, line 16, Again we have opposed the rule relating to appeals. That should read, Again we have proposed the rule relating to appeals. That changes the entire substance of what was said, so I think a correction is in order.

CHAIRMAN NOBRIGA: So noted. Any other discussions? All those in favor signify by saying "aye."
(A chorus of ayes.)

Opposed "nay."

Motion carries.

As soon as Mr. Williamson comes back -- we can

start. We'll start on item D. A letter from Linnel Nishioka, Deputy Director, Commission on Water Resource Management forwarding a copy of a Petition from Maui Meadows Committee Association.

MR. STARR: Mr. Chair?

CHAIRMAN NOBRIGA: Yes.

MR. STARR: For clarification, are we dealing with that communication or are we dealing with the Iao rule making regarding Iao management and so on?

CHAIRMAN NOBRIGA: We're dealing with a letter from Linnel. We did not notice, I guess, a new rule on Iao management, but I believe -- Mr. Fukushima can correct me if I'm wrong, but that discussion on the current Iao water management rule is appropriate. No? Yes?

MR. FUKUSHIMA: As I view it, the letter from Linnel Nishioka is informing us that the water commission is in receipt of a request from the Maui Meadows Homeowners Association to have the Iao aquifer designated.

I'm not exactly sure what action this board or this committee would recommend other than, perhaps, if they are in agreement or if they are not in agreement with -- quite frankly, it's just our notification, a notification to the board that this communication has been received by Mr. Williamson and Ms. Williams.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I would like to begin this by trying to understand what the position of the board or department is that has already been taken. Because I understand that a letter was received by the commission, which I, as a board member, have not seen. And I would like to begin by seeing what communications have gone from the department or board to the commission on this already.

CHAIRMAN NOBRIGA: Mr. Craddick?

MR. CRADDICK: I don't think any letters have gone

from the board to the commission, that I know of.

MR. STARR: Did you write a letter --

MR. CRADDICK: Yeah, but it's not under the board's direction. We're just responding to this letter here.

MR. STARR: Who is "we"?

MR. CRADDICK: The department.

MR. STARR: Can we get copies of this letter?

MR. CRADDICK: Yes.

MR. STARR: Can you pass around copies?

MR. CRADDICK: I don't have it here with me.

CHAIRMAN NOBRIGA: Yes, Mr. Craddick.

MR. CRADDICK: My understanding of this, why this is on the agenda is that there was a response on September 10th. You were the only one that had a meeting scheduled early enough or was going to schedule a meeting.

At the regular board meeting when this was referred to your committee, I think they formed some kind of a special committee. You had brought up the comment of having special restrictions for Central Maui, and I said they are already in a rule that we have. You wanted to look those things over, as well as, I guess, discuss whatever response might be made to this letter from the board.

See, the board also -- I mean, this is the one in here, but my understanding is that Peter Rice also got a letter worded exactly the same; didn't he?

MS. NAGO: I believe so, I'm not positive.

MR. CRADDICK: Yeah. And he just got his by himself, and I think when we put the agenda out we didn't have his letter and we stuck this one in. But there is a separate letter to the board, asking for the board's response to this letter. So that's all I can say there.

CHAIRMAN NOBRIGA: Thank you.

MR. CRADDICK: Mr. Williamson is back.

CHAIRMAN NOBRIGA: Do you wish to offer us testimony at this time? You can sit down next to Fran there.

MR. WILLIAMSON: It's an honor.

MS. NAGO: Thank you.

MR. WILLIAMSON: I'm Jim Williamson, and I'm the vice-president of Maui Meadows Homeowners Association. We're the organization, of course, that filed the petition for declaration. Subsequent to that, I reviewed the data report received from the USGS for the period ending June 30, and I submitted additional testimony to the water commission, which they tell me, I talked to them yesterday, that they had not disseminated to anybody.

They told me that they had not received any kind of correspondence on this from the county, either the council or the administration or the water board, but they had received something from the staff of the water department, which surprised me because I thought they had to go through the water board.

They didn't tell me what that was, but they said they would send the minutes of the September 10th meeting and this whole action has been deferred for two months. So it would be November 10th, more or less, before they take action on it.

What action they take is -- well, they could say that they didn't receive any other correspondence or testimony from anybody; they could actually dedicate it; or they could put it off somewhat longer, which is probably what they will do, because that has been the history of how they operate. They are not an organization to take prompt action.

But conceivably, though, if there's no real -- they told me, for example, if the Iao aquifer went up to 20 million gallons a day, maybe they would take some action. But conceivably, they could take some action by the end of the year or early next year. But that's all I have at the moment.

CHAIRMAN NOBRIGA: Thank you. Any questions for Mr. Williamson? Yes, Mr. Starr.

MR. STARR: I was wondering if Mr. Williamson was aware of a test conducted by the director without informing the board beforehand or without any instruction for the board that resulted in a report by Mr. John Mink recently, and I believe that was also -- it also resulted in a letter to the Maui News.

MR. WILLIAMSON: Yes. David Craddick gave me a copy of that and I reviewed it. I might say it was a little bit self-serving as far as John Mink was concerned, because it related to a formula he developed and so on in the past. I didn't think that really contributed too much.

First of all, a deep well monitor wasn't even monitored because it was not functioning at the time. So this was all the basis of test well B, I believe. I think the report was somewhat reaching in saying that if you didn't pump any more water that you could -- the water would come right back up in 70 days or 80 days or whatever it was. I thought that was reaching.

My professional analysis of that is that it didn't really throw too much more light or any more light on the situation where we are.

MR. STARR: Thank you. I have the same opinion. And I have actually talked to several other hydrogeologists who have the same opinion that this was really trying to bend very little fact to come out with a certain result.

But going beyond that, there's been a lot of discussion about designation of water management areas on Maui, especially regarding Iao. I know that there was a big political drive against it several years ago culminating in a water round table and a lot of home rule rhetoric, and I don't really subscribe to that myself.

I feel that we're lacking something that is very important here on Maui, which is an agency, a governmental agency that is responsible for our water resources, and we don't have that. And we don't have that because none of them exist. We are basically utility to provide potable water to our consumers, and we end up stretching trying to do that sometimes, but it's really not our kuleana.

The only entity that is chartered to do that in the

state is the Commission on Water Resource Management. However, the way the water code is written, they only undertake that and it only becomes their responsibility when an area is designated as a water management area. Looking at those areas that have had that occur, frankly, I think it's a much better situation than in areas where it has not occurred.

I don't feel -- people like to criticize state government, but I feel that they try to do their job and it's better than not having anyone do it. We have no pumping data for any entity beyond the Board of Water Supply here on Maui. The state commission does not have pumping data for hundreds of wells on Maui other than the wells of the Board of Water Supply. We do have pumping data for our wells and we stay within our limits and we do report those.

However, none of the other entities who pump water, whether it's golf courses or the county parks department -- the county parks department was cited for not providing pumping data for Keopuilani Park this last month and fined by the water commission simply because a citizen went out and asked for it.

The process of designation basically means that pumping data will be made available to the commission, and if there's pumping in excess of what's available of the resource, then the commission will decide where the priorities lie, and I feel that that's a good function.

I don't think that it has hurt Molokai. I don't think that it's hurt those areas of Oahu. Except it has made people realize what the real water situation is and deal with the problems. Where we're not dealing with it here; we're hiding from it.

So I, for one, am not afraid of that process. In fact, I feel it may be time for that to be encouraged. However, I don't think that it should just be Iao aquifer. I think it should be a much wider area that should be looked at; namely, all of Wailuku, Central -- of Wailuku and Central and Lahaina aquifer areas, which is basically all of that (indicating).

CHAIRMAN NOBRIGA: Mr. Starr was pointing at a map of Maui indicating everything from the belly button to the tippy top of the head.

Mr. Williamson, you said you had a comment.

MR. WILLIAMSON: Couple of comments. I mentioned we

sent an additional report to the water commission, and that report related to two issues based on the analysis of the latest USGS data report.

The way this has been presented by the department, and I think viewed by the commission, is that the Iao aquifer is not connected, or if it's connected at all, but not very much to the North Waihe'e aquifer. However, if you take a look at the data going back to 1988 on the North Waihe'e pump 1 and the test hole A-1, the level pattern is almost identical.

In other words, you can see the drop in the water and the actual cycles of the drop in the water for both of those situations, and then when you look further into the aquifer, the deep monitor wells, test hole B, test hole A, it's all the same.

So we really have a situation where we have got a gross interconnection, and so we shouldn't be looking at just what's drafted out of the main aquifer, but what's drafted out of the total area. And if we do that, instead of being maybe 10 percent under, we're 10 percent over, even assuming 20 million gallons a day is a correct number, which we doubt very much. That's number one.

Number two, it's been assumed by the department that there's a lot of water down there, because the deep monitor well shows the salt level, you might say, at least the transition zone which really represents salt level. Even though it's coming up but maybe 8 feet a year, that salt level may be somewhat low down around 600 feet for the deep monitor well.

But for the Mokuahau and the Waiehu Heights A wells, it's only around about minus 250 to minus 338, and they are basically at the level -- allowable level of salt concentration. If you take a look over this whole aquifer, you can't say that the deep monitor well is the way we have got everything over the aquifer. Far from it.

In fact, my analysis of this is that instead of being 600 feet down, a prudent analysis of this would say that all you've got is about 250 feet. Which is quite a reduction. Because if you go much further, you are going to get saline concentrations much greater than 250 parts per million.

And I think for that reason, maybe somebody independent should look at this. I've been looking at it from the outside, other people have, but maybe the board should think about talking to the Honolulu Board of Water Supply and

talk about who their consultants are to take a look at this situation. I think we have had a rosy picture here with our head in a sand operation, where we don't really know what's going on and it could be quite dangerous.

The county council, surprisingly enough, had been very complimentary of the fact that we filed this petition. I expected -- Jonathan Starr said the home rule situation that's come up. On the contrary. The council has talked to this charter commission that's now being assembled for the county and said get the aquifer out of the water board and back on to the council again. That's the extreme of what we're talking about. Instead of being for home rule, they are talking about the fact it should be under the county.

I would be perfectly willing to send in a copy of this supplemental report that I sent to the commission.

CHAIRMAN NOBRIGA: Thank you.

MR. WILLIAMSON: You're welcome.

CHAIRMAN NOBRIGA: Mr. Starr did allude to a test, I guess, that was conducted and there is a report, I would like the director to give us an oral dissertation.

MR. CRADDICK: You want a copy of the actual report?

CHAIRMAN NOBRIGA: I don't want you to read the report, just give us something that we can understand.

MR. CRADDICK: I have a copy of my letter to the commission here. Basically, what we did was, we're trying to understand why the interface level is so far down in Iao. It does not correlate to what they call the 1 to 40 ratio that the density of fresh water and salt water would normally have. And one theory is that the salt water level has not risen up to match what are the perceived water levels in the aquifer.

And because Mr. Mink is involved with Carl Takumi doing our wells out there in North Waihe'e, I think he took it upon himself to do this. They didn't charge anything for this. It did cost us something because we had to have people out -- a few people out shutting off valves and things like that during the night and incurred overtime.

What we want to do was, if that's correct when we

shut all the pumps down, the water levels would not change; they would basically remain the same. When we shut the pumps down, I believe they recovered about .8 feet. And you can see, and what I have handed out, the graph of that recovery. Now, whether that's in test hole B or any other well, it won't make any difference.

The reason I say that is because we did the same test back in January of 2000. We did use the results from the state monitor well and it came to 89 days. So this was 82, the other one is 89 during the same scope. Now, what he has done is he has taken an equation -- or the equation best fit curve of these points. There's no equation that Mr. Mink grabbed out of the sky or anything like that.

He simply plotted the points, and then said at what point would this rise up to a level that would equal what you see, the mid level point, which is minus 699 feet below sea level, and that number is 82 days. So that's based on numbers measured. The actual real factual information. It's not based on a model where you put constraints on it to make the model match what your idea is of what the aquifer should or shouldn't do. It's based on actual test information.

And whether you think that if we shut it off for actual 89 days or 82 days or whatever it is that would recover up to that. That's why I have said that later on this year we're going to try for 24 hours and we'll see if it keeps matching this curve.

The other thing the board could do, we had it in our budget the last few years to actually get a real working model of Iao. Now, to do that, we have had cost estimates in a range anywhere from 150,000 to \$600,000 to do a model like that. And that would be a good bit of information, I would think, for all of us if we were to do something like that.

But as far as the results of the test here, that's it. We were basically trying to show that -- or find out what time it would take so there was a match between the water level that does match the interface level. And keep in mind that our Waikapu well does match that. It's in an area where no pumping is going on and that water level out there is about 17 1/2 feet and that does match the interface level. So you've got a well in Iao that does exactly that.

When we shut Wailuku shaft off, it came up to this level in about 90 days. We did that in 1994 and it came up to this same level in about 90 days. So, too bad we didn't have

the actual water level as it climbed up. We could do that, we could actually shut down Wailuku shaft for 90 days and do that over again to make sure we got the data this time. There are other ways to prove that this report from Mink & Yuen is factual.

CHAIRMAN NOBRIGA: I would note the arrival of Howard Nakamura, committee member, board member.

Subsequent to the letter from Linnel Nishioka, make us aware of the petition, what action, if any, does this committee feel is warranted? Mr. Starr?

MR. STARR: My feeling is the first action should be to write a letter saying that the board does not necessarily agree with the opinion that was sent in the director's letter, which I think is misleading, and that it could cause them to believe that this is the opinion of the board. Since it comes from the department on letterhead and it says "we feel."

It is not necessarily -- I would like to begin by distancing ourselves from what the director has gone off on his own and done, which I feel he should not have done without the board taking a position.

MR. HASHIMOTO: What do you feel that -- whatever he did is not -- well, is not sufficient what he did? Or what are you disagreeing with the report?

MR. STARR: I disagree with most of his points. I would not like the commission to be under the impression that this is the position of the board. The board may take a position similar to this on its own, but it has not. And I thought that at the meeting, at the board meeting where we discussed it, it was clear the board at that time was not taking a position.

And here I see a letter that seems to state that the department, which means the board, is taking a position, where in reality what we have is the director personally taking a position. So I would like to see a letter from the board to the commission, saying that this is not the position of the board, at least at this time, and this is maybe the position of the director personally.

MR. HASHIMOTO: Who would write the letter? Who

would be more knowledgeable? Or you would write the letter? Who would draft a letter from the board? I'm not knowledgeable enough to really --

MR. STARR: I'm not contesting any points in this. All I'm saying is that this was not a position taken by the board. That's the extent that I'm talking about. Now, if we're interested in taking a position, I am willing to discuss that. But I just want to make it clear that this is -- that this letter that was received by them is not the official position of Maui Board of Water Supply, which --

MR. CRADDICK: I'll write a letter like that, with no board action. I'll write a letter like that. I tried to say in there what the board was doing at their last committee meeting. They said they were going to convene this special review of alternative sources. That was the motion made by the board, and I put that in there so the commission is aware that the board is doing something additional. But I can make it very clear that the board is not taking any position on this matter.

MR. STARR: And that this letter that was sent was your own personal opinion.

MR. CRADDICK: Well, Jonathan, it's not my personal opinion. I mean, we talked this over with the staff. I don't just make these on my own.

CHAIRMAN NOBRIGA: Yes, Clark.

MR. HASHIMOTO: You are suggesting that we have an independent firm doing the tests?

MR. STARR: Well, as far as this test goes, my belief is that this is bad science, you don't turn off the pumps for 15 hours, have it bounce back a few inches, and then say, well, I'm going to multiply a few inches to -- multiply out a few inches by that and try to find an ending point. That's not the way it works.

What it does in the first 15 hours after you turn off the pumps is not indicative of what -- of the change that will be taking place a month later or two months later or three

months later. So I feel that this is just an attempt to justify that everything is peachy keen. Whether it's not -- or whether it is or not, I don't know.

I, for one, want to see real testing and real modeling, and not only of the Iao aquifer but of all the aquifers on Maui. If we had a mechanism for doing it, I would be satisfied. I don't think we do. That's why I, for one, and it's just one voice, feels that I would welcome the commission to look into the sustainability of our resource and make sure that we're not abusing it, and not just in Iao aquifer but outside of Iao aquifer.

For example, the Kahului aquifer segment, which is right below Iao, has a sustainable yield of 1 million gallons a day. There's perhaps 30 million gallons being pumped out of there. When you add up various pumping between Maui Electric, Keopuilani Park, other parks, several golf courses, and so on and --

MR. HASHIMOTO: But these are being used for irrigation.

MR. CRADDICK: Potable.

MR. STARR: But they're still -- they are in connection with the Iao aquifer. There's no geologic line; there's simply a political line between Iao and that. So the science now has kind of bypassed that, looking at an aquifer as a separate entity. We're one of the few places on earth where that's still done. Every place else models; you take a larger area and you model the whole thing. That was done on Molokai and I believe it was --

MR. CRADDICK: Lanai. Not Molokai.

CHAIRMAN NOBRIGA: Any other comments from the other members? Recommendation is to defer action on this matter. We'll set up a meeting exclusive to reviewing Iao management rule. Any objections?

MR. STARR: Just that we are expecting the director to write a letter saying these were his comments. I'll be happy with that.

CHAIRMAN NOBRIGA: Yes.

MR. CRADDICK: Yes.

MR. STARR: Thank you.

CHAIRMAN NOBRIGA: Objections?

The reconvened meeting of September 11th is now adjourned.

(Whereupon the September 20, 2001 Rules Committee meeting was reconvened.)

CHAIRMAN NOBRIGA: We're reconvening the rules committee meeting noticed for 10 a.m. Back to the agenda. We're in receipt of written testimony from Hugh Starr. Any oral, verbal testimony wishing to be given at this time? Okay, good.

Item 5 is discussion and possible recommendation regarding a proposed amendment to the definition of subdivision in Section 1-2 of the rules and regulations of the Board of Water Supply. We have a proposed amendment, I think, submitted by member Howard Nakamura, which added, "For purposes of these rules, consolidation and resubdivision, pursuant to Section 18.04.020 of the Maui County Code, shall not be construed a subdivision."

There's also another amendment we could take up at this time that's to take us out of the subdivision practice altogether, and leave the subdivisions part of it as a function of the planning department, I guess, or land use and codes.

MR. FUKUSHIMA: If I may, Mr. Chairman, I believe this discussion should be limited to the proposed amendment since that was -- since there is specifically -- the amendment was specific -- this proposal was a specific proposal, with any other amendment -- if you want to consider any other amendment, I believe that should be another agenda item. Thank you.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I disagree with corp counsel. I think we can have whatever discussion we want, or action. If we're going to approve something might be limited.

I would like to get a greater understanding of why we're involved in the subdivision process. Try to examine that

a little bit. I'm also not really convinced that we need to necessarily be in that loop except where it pertains to fire flow requirements or the issuance of meters. I'm not even sure if we're the right entity to be looking at it in terms of fire requirements.

CHAIRMAN NOBRIGA: Yes, Mr. Craddick.

MR. CRADDICK: In support of that comment, I would say, also, I know the rules have things for regulating subdivisions in there, but a number of utilities don't have that in. I see little necessity for it except to protect the subdivider.

Because if we just say the system has to be adequate and they have to construct our standards to hook up to the system, it puts a lot of responsibility on the design engineer to design the system so that it will do that. And later on people don't come in and -- like the last meeting that we had and subdivision got approved with inadequate services to it. And I would be very happy.

I know our staff has a little bit of concerns on whether the board would then take their focus off the subdivision and on to the standards; but even then if the board decided they wanted to do that, I think the focus would be a lot more properly on water issues rather than subdivisions.

CHAIRMAN NOBRIGA: Thank you. Let's focus our discussion right now on the amendment that is proposed. Yes, Mr. Nakamura.

MR. NAKAMURA: Mr. Chairman, I believe this is an amendment that I had requested corp counsel to prepare and the genesis of the request was -- I believe that when we had that young couple from Haiku come before the board -- I can't recall their names but --

MS. NAGO: Hughes.

MR. NAKAMURA: The Hughes issue where in review, it turned out that the Maui County Code permitted subdivisions which merely adjusted boundaries to proceed without any special requirements, and the rules and regs of the Board of Water Supply did not address that.

And the department's determination was that, in fact, it was a subdivision pursuant to the rules, and the Hughes were in a situation where had they not done anything, then they would have been able to proceed, but the act of trying to adjust the boundary triggered what seemed to them to be a very onerous situation.

I thought that was a reasonable position that if you had merely an adjustment of boundaries that did not otherwise impact the development of the lot, that it was reasonable to have the rules provide that this was something that this did not require improvement and ask corporation counsel to prepare an amendment accordingly. And that's what is before the board and the committee.

CHAIRMAN NOBRIGA: Thank you. Mr. Starr?

MR. STARR: I'm willing to support the intent of it. I have some concerns after having experienced my neighbor in Kaupo doing a consolidation and resubdivision and somehow taking something that was -- it was originally three different grants, and somehow at the end of it they ended up with nine different lots.

Because there was a -- the main road, and then there was an old road which had not been used for 50 years and they both cut through it. So they were able to take advantage of a loophole in the consolidation and resubdivision, so that they ended up with a lot more lots, and I know that loophole does exist.

I would like to add some wording that states that the consolidation and resubdivision that does not create additional lots. In other words, when they start with two lots or start with three lots --

MR. CRADDICK: The law says that --

MR. FUKUSHIMA: If I may, Mr. Chairman.

CHAIRMAN NOBRIGA: Mr. Fukushima?

MR. FUKUSHIMA: The subdivision that Mr. Starr is referring to, I don't believe he has his facts correct. Number one, 18-04-020 clearly states that consolidation and resubdivision, you cannot end up with more developable velocity

than you started out with. So, in other words, his representation that three lots suddenly turned to nine was not as a result of this particular section of the code.

But we do agree, and we think that the board should consider limiting the number of lots that are available under this provision, such as that consolidation and resubdivision of more than three lots, perhaps. Some language that would limit it to -- would limit the application of this particular waiver.

We can see that the main problems -- and when we don't consider resub -- the consolidation and resubdivision of ten lots, there could be a significant impact on the water system and the department's obligation to supply water.

So again we would -- the idea we believe is a sound idea, but we would also recommend that it would be limited to a number of lots, not an indefinite number of lots.

CHAIRMAN NOBRIGA: Mr. Craddick?

MR. CRADDICK: Also, a word that was turned up by Howard, it's developable lots. We have encountered a real problem with that. And this board has had to deal with it on more than one occasion.

One of the first subdivisions that came out of this, the guy took nine lots down in the gulch, little kuleanas, you know, small-sized, probably could never have built on them, all landlocked, and rearranged them around a road, with no water system whatsoever and subdivided them, and now all of those lots are all coming in for resubdivision calling themselves private water systems.

The other thing is taking little scraps of road remnants, 500, 600 square feet, they attach that on to a 3.9 acre piece of land and it goes over the 2 acres, so boom, then you got 2-acre lots out of this little road scrap that you never could put a house on in the first place.

Is there any other examples, Herb, that you can think of?

MR. CHANG: I think the last example was the --

MR. CRADDICK: Hughes, you know, Hughes, no question about it, that was kind of egregious because they simply wanted to get a septic tank in. There are a lot of people out there

that have -- are using this basically to get around the requirements, and so without some kind of qualifying language, I think to just generally say okay, is going to make trouble.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: Can counsel suggest language that would limit it to three lots?

MR. FUKUSHIMA: We certainly can. And just to clarify, if I may, Mr. Chairman, a statement made by Mr. Craddick. The developable lot is defined as something over 1200 square feet, and that number was arrived at by considering setbacks, and considering what a reasonable sized dwelling can be placed on that lot. I believe it was a 500 square foot structure.

If we put a 500 square foot structure applying with the appropriate setbacks, the division of land use and codes came up with 100 feet. And so a 500 square foot remnant parcel would not be -- would not qualify under this particular provision of the law.

MR. CRADDICK: Let's say you had a 2,000 square foot, 5-foot wide remnant, would that be a developable lot?

MR. FUKUSHIMA: If it's over 1200 square feet.

MR. CRADDICK: Yeah, but you can't build on it, it's only 5-feet wide. Those are the type of things we're getting.

MR. FUKUSHIMA: There is a definition of developable, if you believe it should be something different, maybe we could ask the council to reconsider that, but right now it's 1200 square feet.

CHAIRMAN NOBRIGA: Kent?

MR. HIRANAGA: Mr. Chair, I believe that if we start specifying number of lots and we're entering the arena of subdivisions, I thought we were trying to get away from that. That is what the public works department duties is, to administer the subdivision process. My opinion is that the proposed language is acceptable.

CHAIRMAN NOBRIGA: Yes, Mr. Nakamura.

MR. NAKAMURA: On the issue of developable lots, I agree with the concept that this should not be used to take a reasonably undevelopable lot and somehow turn it into a developable lot through this mechanism. If it's necessary to -- is it possible for the board to develop its own definition of developable?

I agree with David, that if it's only 1200 square feet, I don't know if that's by itself a reasonable definition of a developable lot. It could be 1 foot by 1200 feet long, and then I think that would be improper to then use this ordinance to create a developable lot. Is it possible that we can qualify it in our rules?

MR. FUKUSHIMA: If I may, Mr. Chairman. I believe that you can develop your own definition of developable lot as it pertains to the water rules and it's applicability to this particular -- the water rules and this definition of subdivision. I believe it could be incorporated.

You have another definition of what is -- for the department's purposes -- what is considered developable lot. It may not fit with the definition under Title 18, but I believe you can.

MR. CRADDICK: Howard, are you saying we can come up with a definition for developable lot? Because we don't have one now.

MR. FUKUSHIMA: That's correct. As it would apply to subdivisions and they are reviewed by the department, you certainly can. There may be some confusion because you have two different definitions, one in Title 18 and one in the board's department's rules, but I don't believe that's something that cannot be overcome.

MR. HIRANAGA: Question for corp counsel. Can you explain this sentence, easements for roadway or access purposes shall be construed as subdivided land?

MR. FUKUSHIMA: The interpretation of that particular language is that these types of easements generally

have to be subdivided. Now, I believe, if I'm not mistaken, the Title 18 in its definition of subdivision has been changed. And I can get back to the board on that, but I believe that approximately -- let me strike that.

MR. HIRANAGA: I believe there was a court ruling regarding the Harrison case.

MR. FUKUSHIMA: That's correct. And in fact, I wrote an opinion to the Department of Public Works indicating that in that case the court ruled that these types of easements -- let me strike my first statement.

That these types of easements did not have to be subdivided out. Subsequently that case was remanded, that opinion, that Supreme Court opinion was stricken and the case was remanded to the second circuit court.

However, if I recall my opinion, that we believe that the reasoning contained in that stricken opinion was solid reasoning and we advised the department that unless they made the rule clear that these particular types of easements had to be subdivided out, that they shouldn't require subdivision and that we would be glad -- if they believed that it was an important issue, that we would be glad to revise the subdivision ordinance.

I thank Kent for reminding me of the Harrison case.

MR. NAKAMURA: Chairman Nobriga, I would suggest perhaps this matter be deferred pending definition -- the department reps coming up with the definition of developable lots that we can include in the proposed amendments.

CHAIRMAN NOBRIGA: Yes. I was leaning that way myself. We will be reviewing the entire document -- in our efforts to upgrade our structure.

MR. STARR: I still feel that I'd like to limit it to a certain number of lots, developable lots, and I would hope that, you know, whether members agree with me that wording for that can be created so that we can deal with it once.

MR. CRADDICK: We can ask corp counsel to get some language for that and have it for you the next time you look at it.

MR. HIRANAGA: Would corp counsel also be addressing that statement regarding easement as to whether it's still applicable or not?

MR. FUKUSHIMA: Again, we don't believe that it's part of the -- if it's part of the subdivision process, yes; but if it's outside of the subdivision -- if it's outside of the subdivision process, if it's merely designating access or a roadway easement, then that does not have to be subdivided out.

MR. HIRANAGA: Should we change language in this?

MR. FUKUSHIMA: I don't believe the language has to be changed. Now, if it is the opinion of the committee and the board that easements or roadways for access purposes should be subdivided out under the department's definition, we believe that should be clearly stated. But as it's stated now, we don't believe that it requires subdivision.

MR. HIRANAGA: So it's consistent with subdivision ordinance?

MR. FUKUSHIMA: That's correct.

MR. HIRANAGA: Another comment.

CHAIRMAN NOBRIGA: Yes.

MR. HIRANAGA: I don't understand why condominiumization of a lot should fall under this rule, because it's my understanding that condominiumization does not allow additional dwellings beyond what the county zoning permits. Therefore, as an example, if you were to condominiumize a 2-acre ag lot, you are still limited to two dwellings, one being no larger than a thousand square feet.

So I don't -- the point in fact was that that lady who wanted to condominiumize her ag lot was told she had to get a separate meter; but if she did not condominiumize, she was allowed to build the second dwelling.

CHAIRMAN NOBRIGA: Yes.

MR. FUKUSHIMA: If I may, Mr. Chairman. The reason why that's in there is that in the past, in the interim districts, you could build one dwelling per 6,000 square feet.

And there were numerous types of these developments that were coming up in the interim district where you have a, say, 3,000 square foot lot and you're putting up five houses, it was clear the impact of five dwellings on one lot without having to -- through either the requirements of Title 18 or the board or the department's rules, was significantly impacting not only water service but other services provided for under Title 18, which is the subdivision ordinance.

That's specifically why this language was placed both in the subdivision definition in Title 18 as well as the subdivision definition in the department's rules. These particular types of developments were creating significant impacts on the infrastructure without having to put in the appropriate infrastructure that was necessary to serve these developments. So there is a very good reason for this language being there.

MR. HIRANAGA: Question. Are there still areas on Maui that are zoned interim?

MR. FUKUSHIMA: There certainly are. As well as -- I believe there are pockets on Lanai and --

MR. NAKAMURA: Molokai.

CHAIRMAN NOBRIGA: Yes, Mr. Starr.

MR. STARR: I'm thinking of Mr. Hiranaga's comments and I kind of agree with them, as I do with Hugh Starr's comments here that came to us. I'm wondering if while we're doing this, we might want to exclude condominiums of two or three units.

And Hugh Starr suggested some language where we would add the word -- after "planned unit development and condominium," we would add "of four or more units." It would basically exclude the two and three unit condominiums like the one case that came before us. I would be amenable to adding that language as well, when it comes back to us.

CHAIRMAN NOBRIGA: Four? I would think we should

take the condominium out of the subdivision and create another definition just specifically to condominiums and condominiumization.

MR. STARR: That's a possible way of doing it. I do feel, my own feeling is two units certainly should be allowable; three units is questionable, above four shouldn't be.

CHAIRMAN NOBRIGA: We'll review that when we go into the definition portion of the review of the rules. Any other further comments? That item is therefore deferred.

Let's go to item 6, discussion and possible recommendation regarding rules and regulations of the Board of Water Supply, Subchapter 2, Section 2-1, extensions or connections. Anybody see anything they want to try and do with this? Yes, Mr. Craddick.

MR. CRADDICK: I don't know if it's appropriate now to have that discussion that Howard was saying may not be appropriate last time of whether the board wants to busy themselves with this or delete all the subdivision rules out. Whatever ones have to be that are not in the water service section, put them in there.

Like, for instance, if you want to do waivers of some of the rules, put that in there, get rid of the -- all of the subdivision stuff. Because it -- I mean, I don't know why we're doing it. The subdivision itself doesn't use any water unless people start moving in. That's when you need the adequate system. Somebody just makes a subdivision and nobody ever moves in, nothing ever happens.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I had a suggestion to -- in fact, I was lobbying quite strongly one time by Mr. Brian Miskae, who felt that we should get rid of fire flow requirements totally in agricultural areas. I thought about it and I decided that I don't think that that would be building the kind of society that we want.

Because if we don't force fire flow requirements, sure it makes it a lot easier for us to build our system and a lot easier for people to do their own development; but as areas

go from ag to rural and to urban, we would then end up with more and more communities that don't have fire flow, and we would ultimately have to pay the price to put them in after the areas become urbanized. So I don't really think that's the solution.

The question is, at what point do we have -- what point should the fire flow requirements be triggered, whether it's at the subdivision, whether it's when people build their houses. It seems like when it's when people build the houses, then it becomes a real hardship, and a tendency is to excuse people from that, because it's kind of too late. It also gets more expensive that way.

I'm not sure what the answer is, but I think that's what we really have to decide, at what point does that have to be done.

CHAIRMAN NOBRIGA: Yes, Mr. Craddick.

MR. CRADDICK: I think that's exactly why I say we shouldn't be in that decision making process. That's a decision for the developer and how he decides to market their lots. If they build a system that all you can do is have a gazebo there and toolshed, that's what he is going to build the system for. If they want to have larger houses, multiple houses, that's what they are going to build the system for and they build it to that standard.

And then as far as the fire requirements -- I mean, with the charter commission and stuff talking, I believe there are going to be some changes made there, if not already going on, that are going to happen within the fire department where they do step up to that responsibility for the fire requirements.

MR. FUKUSHIMA: If I can comment. I believe if we got out of the -- if the board decided to get out of the subdivision process and we relied upon subdividers, we'll have a lot more requests like you have from Maui Ranch Estates. Where they have an inadequate system, say they have an inadequate system, Can you help us make it up to standard? Look where that has taken us.

MR. CRADDICK: But nobody in there will get a meter. Nobody will get a meter. If it's not already to

standard in the first place. So they won't be on our system. So if they want to build up later on, they have to produce a system that's up to standard.

MR. NAKAMURA: I definitely agree with what corporation counsel just said. I think that we would be very, very derelict by taking a position that we are not going to review subdivisions and we'll deal with water issues when someone comes in for a meter. I think that's completely contrary to any good principals of planning where you consider zoning, capital projects, subdivision. Those are all elements of community planning.

And I do somewhat support the idea that perhaps we should not be making the determination as to whether or not fire flow is adequate; that may be perhaps a determination the fire department should be making. But I would be strongly opposed to supporting any suggestion that we get out of the subdivision review totally. I think we would have chaos.

The point Howard brought up about Maui Ranch Estates is really an appropriate one, because when that project was approved, I don't know if people really know the background, but the county used to have what they used to call an agricultural exemption provision, whereby a developer who stated that the project was an agricultural subdivision was able to put in substandard improvements and clearly what has happened is as a result of those substandard improvements.

It's the same thing on the Big Island where you had thousands of lots created by bigger subdivisions and they are having chaos there because people don't have the improvements and they are screaming at government to provide it. And so I think it would be a huge mistake to get out of the review of subdivision.

CHAIRMAN NOBRIGA: Yes, Mr. Hiranaga.

MR. HIRANAGA: I agree.

CHAIRMAN NOBRIGA: Oh, good. Okay. We should leave that section in place then.

Move on to Section 2-2, reservoirs. I don't see anything specific that we need to address to reservoirs at this time.

Section 2-3, water mains and appurtenances. Any

reason why we specifically looked at the two-unit subdivision and the three to twelve-unit subdivision? Why was it split up like that? You don't know? You do know, but it's too funny.

MR. CRADDICK: Well, it would only be an opinion, let's put it that way.

MR. STARR: Can we ask the director how we can improve this?

CHAIRMAN NOBRIGA: Yeah.

MR. STARR: How are we going to improve this?

MR. CRADDICK: I have given my suggestion for improving it. I don't know, I would say what's the policy of the board. It comes down to a money issue. How are you going to fund these things? If somebody puts in --

CHAIRMAN NOBRIGA: Don't go away, Herb. Stay there.

MR. CRADDICK: What it is, is the staff does have some suggestion changes for all of these things, and I suppose we could provide them to the committee.

CHAIRMAN NOBRIGA: That would be really nice.

MR. HASHIMOTO: Easier for us.

CHAIRMAN NOBRIGA: Way easier.

MR. CRADDICK: I guess I was having hope upon hope that somehow the board would see that we really don't need to be in the subdivision process, but I do understand what Mr. Nakamura is talking about, and I believe there are other ways to handle that. Other than getting into the minutiae of the design of a system for somebody.

CHAIRMAN NOBRIGA: Mr. Starr?

MR. STARR: I think we should maintain parameters, but I would like to revise these parameters. Maybe there's a way to save money, modern materials. I don't believe that, you

know, 8 inch -- we always need to go 8 inch for the way we have now. I think it's possible to fine-tune it somewhat. I would like to call on Herb to join us every day. What do you guys suggest?

MR. KOGASAKA: We were looking at trying to reference the water system standards, which all counties are working on in a virtual, pretty much completed, putting together a standards reflecting -- that's consolidated all the counties' requirements. And I think maybe, Larry, you can elaborate and go into this a little bit more.

MR. CRADDICK: Larry is the one that's been working on the standards review committee with the other three counties.

CHAIRMAN NOBRIGA: Right on, Larry.

MR. WINTERS: The standards of the procedures that's been going on for approximately ten years, meetings and updating them, and it is essentially final, just minor fine-tuning items now. And we anticipate that they will become essentially final in the next month or so. Then they will go through a printing process and a training -- information training.

MR. STARR: Can you tell us what they are? How they relate to what we got?

MR. WINTERS: As far as the rules, the rules have a lot of standards information contained in them that is contradictory to what the updated standards are. So what our draft is, is going through and essentially eliminating all the standards requirements out of the rules and leaving just the policy, the rules policy.

MR. CRADDICK: Not eliminating. Putting the requirements to follow standards in the rule. You are talking about things that are in the standards, that are in the rule eliminating them.

MR. WINTERS: Eliminating the specific requirements that are in the standards, and the rule will refer to the

standards as the guideline for construction. Not adopt the standards. We don't want to adopt the standards, because then every time we make a standards change we have to go back and do a rule change, which is complicated.

MR. FUKUSHIMA: Let me remind the department, they have an obligation to have whatever changes in standards they are proposing for subdivisions go through the subdivision engineering standards committee for their comment, for their review, and I'm cautioning the department not to forget that important step.

It's provided for by code that if there's any changes in water department standards, it's got to go through the subdivision engineering standards committee for their review and comment and recommendation.

MR. STARR: Hasn't that standard been done in relation to the subdivision committee and all of that? If it's coming out with the state standard.

MR. FUKUSHIMA: All I'm saying is that the Maui County Code provides for any changes to subdivision standards must go through the subdivision engineering standards committee.

MR. STARR: Who is that?

MR. FUKUSHIMA: That's a committee under staff by public works.

MR. STARR: I would assume that that committee is going to approve the standards that public works has been working on with the other counties.

MR. FUKUSHIMA: I don't believe they have seen them yet.

MR. CRADDICK: Yes, they have.

MR. FUKUSHIMA: Have they seen them?

MR. CRADDICK: Yes.

MR. FUKUSHIMA: My understanding was that they had not seen anything yet.

MR. CRADDICK: We have given them a copy.

MR. FUKUSHIMA: When they asked for it two months ago, perhaps you gave it to them. Prior to that when these rules were being considered, I mean, if it wasn't for the chairman of the subdivision engineering standards committee reminding you, Dave, they would not have been seeing those things.

MR. CRADDICK: Yeah, actually, I am supposed to be a member of that committee. I have never known that up until a couple months ago that I was even on the committee.

MR. STARR: Who is the chair?

MR. CRADDICK: I didn't even know the committee existed.

MR. FUKUSHIMA: I believe the chair of that is Tom Godfrey.

CHAIRMAN NOBRIGA: Anyway, continue. Or are you done?

MR. STARR: Can I ask, like, pick something out of here and see how is it changing -- say, like, if we have something that needs a 6 inch or 8 inch, are they reducing sizes, increasing sizes?

MR. WINTERS: With reference to Section 2-3?

MR. STARR: Yes, just general trends.

MR. CRADDICK: We're suggesting deleting the whole table.

MR. STARR: Yeah.

MR. CRADDICK: That whole table there.

MR. WINTERS: Actually not, David.

MR. CRADDICK: It says do we still want this table.

CHAIRMAN NOBRIGA: Yes, Howard.

MR. NAKAMURA: May I ask a question to corp counsel. The issue of rule versus standard, how is that going to be reconciled, or how should it be reconciled, in your mind? Because can you change a standard basically at your discretion or does there have to be some additional process which is short of rule making? What is the relationship?

MR. FUKUSHIMA: I think you could draft the rules to reference standards that are on file with the department, and on file with the department or as may be amended in the future and handle it that way, and it may be a little more flexible; it may be a little more time saving if you do it that way.

But again, there are -- even then there are steps that you've got to go through, such as subdivision engineering standards committee being one. But if the rule is made in that fashion, I believe it would lend a lot more flexibility when new standards want to be adopted, new materials, or what have you.

MR. CRADDICK: An interesting group, but I never had an agenda, never knew I was on the committee. It says in the ordinance that they have some authority over the water department standards.

CHAIRMAN NOBRIGA: For water mains and appurtenances, we have the Section 1, urban districts, it says current standards of the insurance service officers guide, blah, blah, blah, to the end of the sentence, fire flow, that would be -- that's all we need in this rule. The rest of this table is just a reflection of that guide, yeah, with the determination of required fire flow that was in effect at the time this rule was written.

MR. STARR: Excuse me, what's the name of the guide that you are working with, Larry? Is that the same thing that's reflected here?

MR. WINTERS: I'm not sure I understand what you

mean.

MR. STARR: Are you working on a committee that's rewriting the insurance --

MR. CRADDICK: No, no.

MR. STARR: -- determination of required fire codes?

MR. WINTERS: No, we refer to that. We still refer to that.

MR. STARR: Does anyone have one of those? Can I see one?

MR. KOGASAKA: We can provide that.

MR. STARR: Is that a book you use on your day-to-day stuff?

MR. KOGASAKA: Yes, ISO standard.

MR. STARR: ISO. What's the one you are working on with the other counties?

MR. CRADDICK: When they say ISO, don't confuse that ISO with the International Standards Organization. That's Insurance Services Offices.

MR. STARR: I would not think of making that mistake.

MR. WINTERS: We're working on the water systems standards. It's actually several volumes, it's planning, materials, construction, and approved material list and standard details, and also a corrosion standard.

MR. STARR: Is that state or national?

MR. WINTERS: It's county.

MR. CRADDICK: ISO?

MR. WINTERS: I'm talking about the water system standards.

MR. STARR: It's a state book.

MR. WINTERS: It's county.

MR. STARR: Okay. But it's statewide, all the counties statewide?

MR. WINTERS: Yes, all the counties.

MR. CRADDICK: And we think that the health department may be adopting it also.

MR. STARR: It would seem like that would be a good thing to adopt. It sounds like that commission that Howard reflects -- that refers to is kind of a shadow entity.

MR. CRADDICK: Only for us, not for public works. I think public works, they actually do run a lot of things through them.

MR. NAKAMURA: Isn't it created either by charter or ordinance?

MR. FUKUSHIMA: It's created by ordinance.

MR. STARR: Can we get them to approve -- I feel what it is, the county -- the statewide thing that Larry is --

MR. WINTERS: Updating the water standard systems.

MR. FUKUSHIMA: You get them to approve?

MR. STARR: Yeah, if we can get the subdivision committee to approve --

MR. FUKUSHIMA: That's their function, is to review. Whether they approve it or not, I can't speak for them. But anytime standards are proposed to be changed, it's got to be run through that committee.

CHAIRMAN NOBRIGA: Herb?

MR. KOGASAKA: We were contemplating, going back to the reservoirs, for example, taking out the section -- Larry, can you help me out over here? That's a simple approach.

MR. WINTERS: We were going to delete from 2.2 the fourth line after "storage tanks."

MR. CRADDICK: From "with a capacity of 100,000"; right?

MR. WINTERS: Right. To down to "other material." Then insert "size and construction shall be in accordance with the Department of Water Supply standards or" -- continue on with that paragraph -- "as approved by the director."

MR. STARR: I know that a lot of times when we're dealing with fairly small-sized tanks, in a real world everyone puts up steel tanks with liners and they are good for 20 years. I've done -- I'm sure Mike has done it and Clark. They work fine for a fraction -- a tiny fraction of what we're spending on tanks. And I would like to be able to see them used where it's suitable. There are places where it's not suitable.

But my feeling is that it should be something that the director can make a call on and go from a lot of time and -- to a 100,000 tank to a \$20,000 tank. Will that do -- will that do that? Will that allow that?

MR. WINTERS: It will, because anytime that the -- our design feels that the requirement is less than the standard, as approved by the director, will allow installation of something like that.

MR. STARR: I would like to institute that.

CHAIRMAN NOBRIGA: Well, I would like to see it in writing. I just wanted to hear Herb's views right now. Go ahead, Herb, finish your whole thing. I'm tired, I'm going to adjourn.

MR. CRADDICK: Rather than going through that line by line, why don't we just give the suggested changes to you at

the next meeting. I don't know if you want to reconvene this meeting at some future date and not close out here.

CHAIRMAN NOBRIGA: We'll be revisiting these items again in the near future.

MR. CRADDICK: We'll just make some suggested changes from our side when you put these different headings in here. Corp counsel is suggesting a ram (phonetic) sort of format. That's how we'll do it.

CHAIRMAN NOBRIGA: Any question or comments on fire protection at this time? Or do you prefer to wait for a new meeting with a fresher --

MR. HASHIMOTO: Why don't we wait for the changes.

CHAIRMAN NOBRIGA: The matters are deferred. If there's no objection, this committee meeting is adjourned. Thank you.
(The proceedings were concluded at 12:00 a.m.)

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