

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
FINANCE COMMITTEE MEETING

Held at the Kahului Shopping Center, Kaahumanu Avenue,
Kahului, Maui, Hawaii, commencing at 9:00 a.m. on
April 16th, 2002.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354

IWADO COURT REPORTERS, INC.

A P P E A R A N C E S

COMMITTEE MEMBERS:

Howard Nakamura, Chairman

Clark Hashimoto

Kent Hiranaga

BOARD MEMBERS:

Jonathan Starr

Mike Victorino

Ginnie Parsons

STAFF PRESENT:

David Craddick, Director

Ed Kushi, Corporation Counsel

Mike Quinn

Herb Kogasaka

Fran Nago, Board Secretary

CHAIRMAN NAKAMURA: It's a little after 9

o'clock. I would like to call the meeting of the finance committee of the Board of Water Supply to order. It's Tuesday, April 16, 2002. We're meeting in the Kahului Shopping Center on Kaahumanu Avenue.

In attendance this morning we have committee members Kent Hiranaga and Clark Hashimoto, and board members Jonathan Starr, new board members Mike Victorino and Virginia Parsons and I would like to

welcome Mike and Ginnie to the board. As we indicated earlier, although this is a committee meeting, please feel free to participate as you desire.

We also have in attendance David Craddick director, George Tengan, deputy director, corporation counsel Ed Kushi, Jr., other staff members as would be indicated on the record by Fran. And at this time I would like to proceed with the agenda.

We have minutes that have been circulated, the finance committee minutes of February 12, 2002. What is the pleasure of the committee?

MR. HASHIMOTO: Move to accept the minutes.

MR. HIRANAGA: Second.

CHAIRMAN NAKAMURA: Moved and seconded to accept the minutes. All those in favor, say aye. Opposed? Motion is carried.

At this time we'll open the floor for testimony from the public on any item which is either

on the agenda or not on the agenda. If it is an item on the agenda that you're here to testify on, you may either testify now or wait until the item comes up.

Are there any members --

MS. NAGO: He's going to wait until the item on Ulapalakua comes up.

CHAIRMAN NAKAMURA: Okay. Let's move on. The first item on the agenda is Director's 02-11. This is to request authorization to reimburse the Department of Finance for the services of Herbert Chock for the Mahinahina arbitration settlement.

Representative of the corporation counsel office, Mr. Blaine Kobayashi is here. Mr. Kobayashi?

MR. KOBAYASHI: Good morning, Mr. Chair, members of the committee. Again, for the record, Blaine Kobayashi from the corporation counsel's office.

Just for backup purposes for the new members, basically this case involved a claim that was filed by

Bodell Construction Company. Bodell Construction Company was a company which was hired by the department to do work at a water treatment facility. After the project was completed, there was a dispute That Bodell Construction Company had with respect to a delayed damage claim that they filed as well as there was a wage issue that was involved also. They filed a lawsuit against the Board of Water and the Department of Water. The case then went into arbitration by agreement of the parties and pursuant to the terms of the contract that we had with Bodell Construction Company.

The case was originally handled by former first deputy Howard Fukushima and he asked me to assist him on this case. When I first looked at the case, my first assessment was that we needed to hire what's called a construction litigation expert to assist the Department and the Board of Water in its defense. Construction litigation expert basically will look at the case and assess the delay damage claim that was being asserted against the Board and

the Department.

The claim that -- the monetary amount of the claim that Bodell Construction Company was seeking against the Department and the Board exceeded 500,000.

On September 26, 2001, my understanding is, from looking at the minutes, Mr. Fukushima appeared before the board and requested authorization from the board to retain the services of Mr. Herbert Chock & Associates. Mr. Chock is the construction litigation expert that we were wanting to assist us in the case. The board approved the hiring of Mr. Chock and authorized an initial amount of \$10,000 for his services.

In looking through the minutes, Mr. Fukushima indicated that if the case were to proceed forward, he would assume that that amount would probably be insufficient. And just for the new members and also for the current members, construction litigation as well as any other type of construction type of lawsuits, it costs a lot of money and it costs a lot of money to retain these experts who conduct this type

of analysis in terms of providing a defense for any defendant in the case.

But in any event, when I spoke with Mr. Fukushima after he appeared at this meeting, there was a miscommunication, first of all, which is why I understand there is some issues that the board members have with respect to this request. But again, when I spoke with Mr. Fukushima, it was my understanding that the board had authorized the hiring of Mr. Chock.

Now, in looking through the minutes, I understand that it was my obligation and responsibility to come before the board after that initial \$10,000 was expended and that did not happen obviously and for that I take full responsibility.

I think for purposes of purely explanation, I just wanted to explain to you a couple of things. One is generally when our office handles litigation and the hiring of expert witnesses, this is aside from the Board of Water cases, we have a basic -- a litigation fund in which to tap into to pay expert fees, expert witnesses. In other words, there is no necessity for

us to always go before the County Council to continually ask I need another \$5,000, I need another \$10,000. There is a fund that we tap into to pay for our expert witnesses and expert fees. That's one of the reasons I think again what happened happened in this case. And again, this is just purely for purposes of explanation and background, nothing more.

Again, as I pointed out earlier, I think there was miscommunication between myself and Mr. Fukushima as far as what exactly the board authorized on September 26th when he did come before the board and it was not just to authorize the hiring of Mr. Chock but also to come before the board whenever that initial \$10,000 was expended.

I think another problem that happened in this situation was that the actual contract that was prepared for Mr. Chock's services was routed through the Department of Finance when it should have gone and been routed through the Department of Water, Board of water. And if that had happened, that could have been another reason where we could have perhaps caught what happened in this case.

In any event, Mr. Chock did provide the services. His ultimate and final bill in this case for his services amounted to \$70,000 -- \$70,170.79. That seems -- it seems high and it is high, but like I explained before, expert witnesses -- any expert witness does not come cheap. And I would point out that the case did go to arbitration, Mr. Chock and Mr. Craddick was in attendance and Mr. Winter was in attendance at the arbitration. Mr. Chock provided excellent services for the board. The arbitrator obviously believed Mr. Chock and his testimony that he provided because we received a very favorable verdict from the arbitrator. And again, I believe that Mr. Chock's services was a big asset to the Board of Water and the Department of Water Supply.

I'm coming before the board today to request that the Board of Water Supply reimburse the Department of Finance for the amount that's set forth in my March 6 letter to Chairman Rice and the members of the board. And again, I apologize for the situation that has happened. Again, I take full

responsibility for what has happened. I offer my comments as purely for explanation purposes. And if the board members have any -- or members of the committee have any questions for me, I would be more than happy to answer them.

CHAIRMAN NAKAMURA: Thank you, Mr. Kobayashi.

Do any of the committee members have a question? If not, any of the board members have a -- yes, Ginnie?

MS. PARSONS: Is there any negotiations on this \$70,000 figure?

MR. KOBAYASHI: As far as the \$70,000 figure, there is no negotiation because that is the fees that were expended by Mr. Chock in providing his services to the board. So he's not like opposing party where you can do like a negotiated settlement. These are his fees that were expended. And actually he was already paid this amount by the Department of Finance. But again, because this was a case involving the Board of Water Supply, my understanding from speaking with

Mr. Fukushima was that the intent was always to have our office basically fund the expenditures of Mr. Chock and then come to the board for reimbursement of those fees.

MS. PARSONS: But he was approved, if I understand this correctly, he was approved for \$10,000 services and he agreed to that. And he agreed to that?

MR. KOBAYASHI: If he read that?

MS. PARSONS: Did he agree to the \$10,000?

MR. KOBAYASHI: No, this wasn't a situation where Mr. Chock was involved in that type of discussion with the board. The initial \$10,000 amount was a discussion and situation between former first deputy Howard Fukushima and the board. This wasn't a situation involving at that point where Mr. Chock was present at the meeting and said okay, I'll just agree

to perform services for \$10,000.

MS. PARSONS: And nobody told him that this is what the board had agreed upon.

MR. KOBAYASHI: No.

CHAIRMAN NAKAMURA: Okay. Any other questions? Mr. Starr.

MR. STARR: What was the settlement amount and what was our potential exposure?

MR. KOBAYASHI: The potential exposure, as I explained earlier, was in excess of \$500,000. The arbitrator came up with an award just over a hundred thousand dollars -- \$102,000 was the award.

MR. STARR: Mr. Chock's billing, was that broken down in any way? Was there an hourly?

MR. KOBAYASHI: He charges by the hour and additionally he also charges of course for his

diagrams and charts and what not that was prepared.

MR. STARR: I assume finance looked at the billing and --

MR. KOBAYASHI: Yeah, because that's always
attached with the request.

MR. VICTORINO: The only comment I would have
at this point was, being new, I understand, but maybe
some kind of mechanism can be put in place that in the
future if something of this nature comes about, that
an up-front estimation is presented before we get to
the point where we kind of like behind the eight ball
and got to pay the bill anyhow.

MR. KOBAYASHI: That's a good suggestion.

MR. VICTORINO: I think that's something,
Mr. Chair, we could address in the future that should
be put somewhere that any time you have experts come
on, we should have a closer estimation than here's

\$10,000, start out and then give us the bill later.

CHAIRMAN NAKAMURA: Thank you, Mr. Victorino.

I have a couple of questions to Mr. Quinn, I suppose.

What would be the funding source for this additional expenditure?

MR. QUINN: Mr. Chairman, we have enough money in the professional services portion to cover this additional appropriation. The board approved \$10,000 to come out of the director's portion of professional services budget in September of 2002. So we're looking for an additional \$60,000 which we have in the professional services portion of the budget and we don't anticipate spending by the end of this fiscal year. So it would involve no new approach operation, just the board's approval to reimburse essentially the finance department which already paid this.

CHAIRMAN NAKAMURA: Thank you. So again,

Mr. Kobayashi, you feel in the context of the overall claim that both the settlement and the fees are

reasonable?

MR. KOBAYASHI: Yes.

CHAIRMAN NAKAMURA: Thank you. Any other questions? Mr. Starr.

MR. STARR: Just so when this comes to the full board, I'm going to request that a letter be sent to corp counsel commenting that, you know, this was not a good situation. We approved \$10,000 and we should have heard it when it exceeded that, that it was an error on the part of counsel's office that I don't think we should hold their feet to the fire in this case but I think if it should happen again that it come out of the corporation counsel budget and not the Department of Water budget.

CHAIRMAN NAKAMURA: Thank you, Mr. Starr.

What is the pleasure of the committee on this item?

MR. HASHIMOTO: I move to accept the Director's Report 02-11.

MR. HIRANAGA: Second.

CHAIRMAN NAKAMURA: Moved and seconded to approve -- or recommend approval to reimburse the Department of Finance for the services of Mr. Chock. And the committee report would also note the comments of members of the board and the committee with regard to the need for [inaudible]. All those in favor, say aye. All those opposed? Motion is carried. Thank you, Mr. Kobayashi.

Okay. The next item is number 2, discussion and possible action on a settlement offer regarding the Lower Kula Water Treatment System Part A, Access Road Improvements. I believe Mr. Minatoya from the corporation counsel's office is here to present this item. Mr. Minatoya, could you perhaps give the committee a brief background as to the issues involved and the potential need to go into Executive Session on this request?

MR. MINATOYA: Thank you very much, Mr. Chair.

For the record, Richard Minatoya, corporation counsel.

I know there is somebody from the public that's here.

I don't know if you want to take their testimony first and then I can do a brief visitation.

CHAIRMAN NAKAMURA: Is there anyone here who wishes to testify on this item? Mr. Parker? Please identify yourself for the record.

MR. PARKER: My name is Steve Parker and I represent the land owners on both sides of Kahakapao Road that the Kahakapao Road alignment is affecting.

The situation has occurred at the Kahakapao Road that leads up to the Piiholo Reservoir. We discovered about nine months ago that it -- or a year or two ago, I can't remember exactly, that --

THE REPORTER: I can't hear because of the echo.

MR. PARKER: I represent the owners on both

sides of Kahakapao Road that the Department of Water Supply paved approximately 10 years ago. In the process of surveying their lot, they discovered that the paved road is 80 feet -- a maximum of 80 feet outside this right-of-way.

There was right-of-entry agreements signed by some of the owners, but not all, and in that right-of-entry agreement they suggested that the owners review the plans regarding Kahakapao Road. I don't believe any of the owners ever did. The net result was the -- I can go up here and show it, it might be a little easier. The net result is there is four property owners that were a hui that owned 75 acres. And they have been in the process of trying to divide up their interests and --

MR. HASHIMOTO: Where is this?

MR. PARKER: This is Kahakapao Road in Olinda. The treatment plant is up here. This is going mauka and that's makai. In the process of doing their survey, they found that their property line, which

[inaudible] -- but the pavement is here. It effectively estopped this property from accessing the paved road. They have legal access here, but they don't have access to the paved road. They have negotiated with this hui member to buy this portion that is now a remnant lot. They have also negotiated with the Public Works Department about exchanging a right-of-way that would get the pavement in its right-of-way for this piece.

We have run into expenses that have totalled about \$28,000 in legal and consulting and survey expenses in trying to effect this situation. They're not asking for any of the money reimbursed for having to buy this land which they don't particularly want in the first place. They're just asking for reimbursement of expenses of basically getting the road in its alignment.

CHAIRMAN NAKAMURA: Thank you, Mr. Parker.

Any questions by members of the committee?

MR. HIRANAGA: Clarification. You want to move the right-of-way to where the pavement is or you want to move the pavement back into the right-of-way?

MR. PARKER: What physically was there over the years was this dirt road that went up here. And this is where this dirt road was. This is on the side of a hill. This goes back to the homestead acts going back around the turn of the century when they just platted things on the land and it didn't really make any sense. Physically this thing has been here for a long time. Nobody bothered to get their property surveyed to figure out that they no longer touched this dirt road.

Well, the county came along -- or the Board of Water Supply came along and paved it. And they did notify some of the owners to come down and check the plans. If they had done that, they would have seen that this pavement was not in -- they're paving somebody else's property, they're paving this guy's property. What should have been done back in '92 is they should have gotten an easement or purchased this

thing. But we didn't discover it until we were, you know, down the line and ready to divide up everybody's interests and get down the line. So we've run into expenses in survey and legal and consulting to put -- to basically convey this a 40-foot right-of-way around here [inaudible] exchange for that.

CHAIRMAN NAKAMURA: Virginia?

MS. PARSONS: Will you be here? You're going to stay for this because I'm going to have some questions after the attorney --

MR. PARKER: Be glad to. That's how I have been apprised of how it happened. The water department may have another view of how it came about. But that's how my impression of it happened.

CHAIRMAN NAKAMURA: Steve, so that lime right-of-way that looks like about a [inaudible] right-of-way, that's the legal alignment?

MR. PARKER: This is the legal right-of-way.

CHAIRMAN NAKAMURA: Of Kahakapao Road.

MR. PARKER: Of Kahakapao Road.

CHAIRMAN NAKAMURA: Which is a public road.

MR. PARKER: That's a public road. It's a homestead road. It's I guess inorganic how the county ended up with it. But physically this is how this had been going up there for years and they just went and paved it. So I mean this problem is going to -- the Tams have the same problem up above and they will be coming back to you because they basically -- we're going to have this thing, if it works out, we're going to have a right-of-way that ends here and they are going to get have to work something out to get it in its right-of-way. But this is 80 feet. There is a whole half an acre in here. So this is probably looking about the same another half an acre of a

remnant lot that exists.

CHAIRMAN NAKAMURA: So when the county put in the waterline, the county put in the waterline --

MR. PARKER: No, this is paved road. There is no water going down this.

CHAIRMAN NAKAMURA: So the county paved the road to access the reservoir.

MR. PARKER: Right. I guess it was part of the capital improvements for doing the Piiholo Reservoir.

CHAIRMAN NAKAMURA: Okay.

MS. PARSONS: How much is the sale for for that property that your clients are selling? How much for that little acre, half acre?

MR. PARKER: They're purchasing this for \$30,000.

MR. MINATOYA: If I may interrupt, I would like to instruct the board member that I personally don't want to go there because they're not claiming the sales price amount as part of the demand for settlement.

MS. PARSONS: The reason that I asked that, because the taxation amount on the property right now is between a thousand dollars and \$1,300 for the total properties. So I'm just curious on how much it was. Go ahead.

MR. MINATOYA: You already started answering the question anyway, so.

CHAIRMAN NAKAMURA: How long ago was this road paved, David?

MR. CRADDICK: 1992, '93.

CHAIRMAN NAKAMURA: Okay. Any other questions

from members of the committee or board members? Okay.

My understanding is that Mr. Minatoya would like to discuss this matter further in Executive Session.

What is the -- is that correct, Mr. Minatoya?

MR. MINATOYA: That's correct, Mr. Chair, unless there is somebody else here to testify. I saw one more person walk in -- okay. I guess there is nobody else. So we'd request, based upon Chapter 92 of the Hawaii Revised Statutes, that you convene in Executive Session. My understanding is that this committee is entitled to five members. Under the Sunshine Law, a majority of the members present -- two-thirds of the members present can authorize entry into Executive Session as long as it's a majority of the members entitled. So you have three members present. Two would have to vote for Executive Session. But because you're entitled to five, that would make the number three necessary to enter into Executive Session.

CHAIRMAN NAKAMURA: And the purpose of the Executive Session would be to discuss the settlement?

MR. MINATOYA: To discuss the settlement and potential liability of the board and the Department of Water Supply.

CHAIRMAN NAKAMURA: Okay. Thank you. What is the pleasure of the committee?

MR. HASHIMOTO: I move the board convene in Executive Session pursuant to HRS 92-4 and 92-5 in order to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities.

CHAIRMAN NAKAMURA: Okay.

MR. HIRANAGA: Second.

CHAIRMAN NAKAMURA: Moved and seconded that we go into Executive Session. All those in favor, say

aye. All those opposed. Okay. We're in Executive Session.

MR. STARR: Mr. Chair, did you vote affirmative? Did you vote affirmative?

CHAIRMAN NAKAMURA: The Chair votes affirmative. We're in Executive Session. Thank you, Mr. Starr.

[Executive Session convened.]

CHAIRMAN NAKAMURA: The Chair would entertain a motion on item B-2. Mr. Hiranaga?

MR. HIRANAGA: I move that the corporation counsel continue discussions with the relevant parties involved in this particular matter.

MR. HASHIMOTO: Second.

CHAIRMAN NAKAMURA: It's been moved and seconded. Any discussion? All those in favor, say aye. Opposed? Motion is carried. Corporation counsel to requested to continue discussions with the appropriate parties on this matter.

Okay. Moving on to item 3, discussion and possible action regarding proposal for additional office space for the department.

Mr. Director or Mr. Quinn, can you give us the background of this particular matter?

MR. CRADDICK: This is a continuation of an item that was in committee for additional -- actually office space for the entire department. And we put out a request for proposals. Do you have that up there, Howard? Do you still have that up there? It was published March 7th of this year and originally was supposed to close April 9th and we extended that at the request of some people until yesterday.

We have received basically two proposals. One I believe is requesting confidentiality. And there was just for our information a submittal from the

mayor's office on a property that's being foreclosed on. So we have those three proposals. The one is not opened at this point. And the other one is from Commercial Properties of Maui. The other proposal is from Kai Pacific Limited, and then there is a Fong Construction stamped on it. And it was submitted 10 minutes late, but I felt in this sort of a request for a proposal, it was submitted before the opening time of the bids, so it's not a critical defect as far as the proposal goes. So that's it.

CHAIRMAN NAKAMURA: The Chair would like to ask counsel to advise the committee as to the procedures that are being followed here. I guess the proposal was submitted indicating that responses would be held confidential if desired. And if that's the case, is that an appropriate procedure and is it then appropriate for us to go into Executive Session to review the proposals?

MR. KUSHI: I'm not sure, Mr. Chair. I want

to see that item. I'm not sure why make a --

MR. HIRANAGA: Mr. Chair, could we have a short recess?

CHAIRMAN NAKAMURA: Let's have a short recess
while corporation counsel reviews the documents.

(Brief recess.)

CHAIRMAN NAKAMURA: I would like to reconvene
the meeting of the finance committee for item V-3, the
request for proposals on additional office space for
the department.

Deputy corporation counsel has reviewed the
request for proposals which indicated that if desired,
a response could be kept confidential. We have
proposals for which confidentiality has been requested
and so it would be appropriate to go into Executive
Session. So could I have a motion to that effect?

MR. HIRANAGA: So moved.

MR. HASHIMOTO: Second.

CHAIRMAN NAKAMURA: Moved and second that we go into Executive Session for the purpose of reviewing proposals for additional office space. All those in favor, say aye. Opposed? Okay. We're in Executive Session.

[Executive session convened.]

CHAIRMAN NAKAMURA: Okay. We're out of Executive Session. Thank you again for your patience. We're on item V-3 regarding proposals for office space. What is the pleasure of the committee? Mr. Hiranaga?

MR. HIRANAGA: I move that a request be made to the party requiring the confidentiality agreement to waive that requirement in order for the proposal to be reviewed by the board.

MR. HASHIMOTO: Second.

CHAIRMAN NAKAMURA: Okay. It's been moved and seconded that the committee recommend to the full board that the proposal -- or the person making the proposal be asked to waive confidentiality before the proposal can be reviewed by the board. Any further discussion? If not, all those in favor, say aye. Opposed? Motion is carried. The recommendation will be made to the board.

In the meantime, corporation counsel, can you review the procedures? I'm sure that issue will be raised at the full board meeting.

MR. KUSHI: Correct.

CHAIRMAN NAKAMURA: Okay. Moving on, item VI, CIP update for the Ulapalakua waterline.

MR. CRADDICK: The one proposal there that is not requesting confidentiality, how do you want to handle that one? Just make copies of that to pass out

to all the board members at the full board meeting?

CHAIRMAN NAKAMURA: I would suggest you just hang on to it until the board decides what action to take. If that's okay with the committee members. Okay.

After a short false start here, item VI(a), CIP update, Ulapalakua waterline. I believe that the gentleman has been waiting patiently to testify in this matter, so you may have the floor.

MR. BASKIN: My name is Michael Baskin and I own a 23-acre farm in Ulapalakua and I just wanted to make the board aware of what our current water situation is, that we have difficulty in receiving water.

We two years ago started a nursery on the property with the hopes of building a farm there and what has happened is we started our plants. We have a native Hawaiian tree nursery. And we have difficulty in receiving water even though we have a 75,000 water

tank storage of our own on the property. There are many times where we receive no water at all through the water meter. And so we've planted out part of the property, but at this point we are unable to continue or do anything further because of the fact that we get insufficient water. We're located adjacent to the Tadeishi Vineyard.

And so I have been coming to some of the board meetings and realize that there is a study that's being conducted to determine I believe the size of the waterline or what's required to improve the line. I'm not sure why at times we don't have any water, if it has to do with line breakage. But basically we are at a point where we're not able to expand or grow our business because of lack of water. So I just wanted to come today and make the board aware of that. I realize that there is a steady going on and make you aware of just the difficulties that we are having.

CHAIRMAN NAKAMURA: Thank you, Mr. Baskin.

Any question by members of the committee? Or members of the board? Mr. Starr?

MR. STARR: Has the board meeting -- I think it was well over a year ago when we had asked for a recommendation on the waterline -- were you --

MR. BASKIN: Yes, I believe I was present at that and it's been it seems like well over a year now that there has been ongoing discussion about improving the line and I've been coming to the meetings. There was a study that was going to be conducted and my understanding is that there was a deadline and the last meeting that I came to or the meeting prior to that, there was no information because there was no submittal from any of the parties to do the study.

MR. STARR: I know I have a real problem that the thing seemed to have disappeared on us if I remember right and I believe it's -- there was a motion that this thing be expedited by staff as quickly as possible. I think all board members felt that it was a necessary project that should be rushed.

And, you know, I'm just wondering if you have any comments on line sizing or how that should, you know, or on the project, how it should be done, because I think the board is going to take it upon ourselves to get that thing done because we're not getting help from staff here.

MR. BASKIN: Well, the only thing I would say so that is that I believe the study is to determine what size line, if it's -- what size line will be used to come out. And I would say to make sure that it's adequate enough for those of us that do have meters out there. My parents also live out there and have lived out in Ulapalakua for almost 30 years and have the same problems in getting water. So it's just been an ongoing -- and I've been coming to the meetings, trying to determine in terms of my own property how -- what I can do with it because at present we only have a 5/8ths meter and we had requested an increased size of meter and we were told that at this time the waterline is inadequate to increase the meter for our farm. So we were waiting basically for the line to be

improved.

MR. STARR: I have one more question for you.

Do you think the line should be adequately sized so that the people who live out there can get fire protection so that if a house or a commercial structure catches fire, then we'll be able to provide fire flow for the fire department to fight the fire?

MR. BASKIN: I think that makes sense.

CHAIRMAN NAKAMURA: Perhaps it would be appropriate to have the staff, David or Herb, give the committee some information on where we stand with this project. I believe that there has been a proposal made a couple of years ago and so Herb?

MR. KOGASAKA: A consultant has been selected to do the study and we're in the process of evaluating the scope of his proposal and continued negotiations. We hope to get that soon.

CHAIRMAN NAKAMURA: Could you be a little bit more specific in terms of scope, timetable?

MR. KOGASAKA: The scope of the work is to prepare a study from Kamaole tank on to Kanaio and to analyze the existing systems and look at the future water demands and to develop water system improvements to study to provide fire flows for 250 gpm, 1,000 gpm, and assist them in full compliance with the water supply standards. And cost estimates on the alternates and to assess potential to add additional customers to the system, provide an implementation plan and prepare a report, make a presentation to the board.

CHAIRMAN NAKAMURA: Mr. Hashimoto?

MR. HASHIMOTO: So how long would the study take.

MR. KOGASAKA: I believe to the order of four to six months.

CHAIRMAN NAKAMURA: And that's once it's started, which it has not yet been started.

MR. KOGASAKA: No, we're still negotiating the scope of work related is what we're looking at.

CHAIRMAN NAKAMURA: Mr. Starr?

MR. STARR: Mr. Chair, I think that somewhere somehow an attempt is being made to just stall on this thing. It boggles my mind that from over a year, nothing has been done. My feeling is we should really just forget about this study and just go and design and build the transmission and distribution line. We know how to do that. I don't think there is any need to stall. I know there is a real need out there. There is times when there is no water at all for the existing customers.

I think that it's a very simple matter for the department to size the pipe for adequate fire flow and they should do it and we should build the darn thing

rather than spend six months in a study, which my own belief is that study was just to try to put it off a year and a half ago. So, you know, I know this is something that the community up there really wants. I know I've also heard from the mayor and several counsel members that this is a project that they feel should be done as soon as possible, and I think most of our board members, as far as I can tell, seem to want it to get done. So why we need to go through this study, I think we ought to just can the study and, you know, we have so much brain power sitting here in this room, they know how to size water lines. We don't need to go out to some consultant for that, you know. They can tell us probably right now right here what we need to get the job done and let's just go and build it and be done with it.

CHAIRMAN NAKAMURA: Mr. Hashimoto?

MR. HASHIMOTO: Didn't the direction come from the board that they wanted the study, if I recall? But again, I echo Jonathan's sentiments. But is

Ulapalakua Ranch, from what I heard, willing to dig the trench? Or I don't know, maybe -- I think -- maybe not. Is Ulapalakua Ranch willing to give the assistance in at least digging trenches and --

MR. CRADDICK: They said that they would on their property.

CHAIRMAN NAKAMURA: I'm sorry. Ginnie?

MS. PARSONS: What if we set up a time line?

I agree with Jonathan that this needs to be done because I live upcountry and I understand what's going on. But I don't want to see us run into any more problems like we just did with the roadway. So we do need some kind of study, but why don't we put a time line together that has to be done by and since they have already had six months, we make say 60 days, a completed study. So you can see where our easements and everything have to go and we review that and we know that we've got right-of-ways.

CHAIRMAN NAKAMURA: Mr. Hiranaga?

MR. HIRANAGA: I believe that as we go through the budgeting process for the 2002 or 2003 fiscal year, we should assist the department in prioritizing your CIP projects. Because they have a limited staff, limited resources. And to just say we need this done now, we need this done now -- they can't do everything now. So we need to assist them in prioritizing what CIP projects are important to the board. So I think the budget review process is coming up shortly, I assume, is that a correct assumption?

CHAIRMAN NAKAMURA: I would think so.

MR. HIRANAGA: That would be an appropriate time to provide prioritization to CIP projects to the department.

CHAIRMAN NAKAMURA: Mr. Starr?

MR. STARR: I would like to see this ready to

go into the CIP. And I'll tell you that the kind of study that's going to be done is not going to identify those kind of problems as right-of-way or any of that. My recollection is the study was done because there was a dispute between the director and a former board member/board chair over this and I think that was just a way of stalling it out.

As far as what, you know, size lines we need for fire protection, we've got something we do all the time. It's a very unusual thing to put this out to study, you know, and I think that's something that's very rarely if ever done. You know, it's -- the staff can tell us what we need and then that goes out to -- that goes out to bid or else it might go out to design and to design if it's a complicated project. I think in this case staff can design it and we can just do it.

MS. PARSONS: Do you agree with that, Mr. Craddick?

MR. CRADDICK: Surveyors are gone right now,

so I think we would have difficulty in that area doing it in a timely manner. But with some assistance in that area outside, we could. But, you know, not wanting to dispute what the board member said of delaying it, I think what the real problem has been is getting a clear understanding of what it was the board wanted.

To me there is three options: Replace what you've got -- or maybe four options I think we gave the board before. Replace what you've got, provide 250 gallons a minute fire flow, provide 1,000 gallons a minute fire flow, or plan -- do a real water system with an actual plan meeting the community needs.

And if you're going to go that route, meeting the community needs in future plans, some kind of study effort is going to be needed. To just decide that you're going to meet what I would call minimum fire flow, 1,000 gallons a minute, then what you say is right, then it's very cut and clear what the line is going to be sized at. It's also very cut and clear what size the line is going to be sized at if you say 250,000 gallons a minute fire flow. And also if you

say existing line, you know, that's just replacing the existing line, it's easy to do. But trying to do all of these things in a study is what made it difficult. I mean, we had prices coming in \$200,000 to do the study.

So Herb, to his credit, I mean, they have worked extremely hard to get the price down and I think it's in the \$30,000 to \$50,000 range, which is money that the board appropriated to do the study.

And if there is any -- I don't want to say purposeful delay because I wouldn't -- I don't know as I would characterize it as that. But there is concern on the staff's part of what it is the board really wants to do. And if the board just said, hey, we want to meet basic minimum requirements of the water department according to standard, then we know what to do.

MS. PARSONS: That sounds like we need to make a decision.

CHAIRMAN NAKAMURA: Clark?

MR. HASHIMOTO: Well, the question, too, now is are we going to serve the existing customers or is the line going to serve people that are going to want meters? I guess it was part of the study also. If we're going to, what was it -- if we're going to serve -- to me we should serve the existing customers right now because the existing customers, some of them don't have water, don't have pressure. Because if we're going to add new meters, we're going to have new developments and everything else down there. I don't know if that's what we want in Ulapalakua.

MR. CRADDICK: And I think this is the real debate going on here. We quite frankly don't know how to decipher it. All I can say is that 1,000 gallons a minute, if you add new customers on, that 1,000 gallons a minute fire flow will diminish. If somebody wants to subdivide or do something that requires a lot of extra meters, there is going to be other requirements such as storage requirements that they are going to have to put in, not just a line.

We think we can solve the existing problems

with just putting in a line without doing a whole lot with storage. So I believe there is the ability to do both things. You know, if you put in just something meeting existing standards right now, the future is going to have to rely on storage improvements, not transmission line improvements.

MS. PARSONS: Is that what you are suggesting right now? Is that what you are asking us to look at?

MR. CRADDICK: If you want to move quickly on the project, that's what I would say is build a system to meet existing standards. I don't believe it would require environmental work to do that. If you're going to do some big system to meet all future demand up there, then it's going to require impact statement and things like that, but certainly doing --

MS. PARSONS: Let me just clarify this. If we do existing upgrades right now, existing plan, that's not like building -- or is it like building a

three-lane Haleakala Highway?

MR. CRADDICK: No, we would be going from 4-inch probably to a portion of it would be 8-inch and a portion of it would be 6-inch.

MS. PARSONS: And in your estimation, how many years would that serve the county -- how many years would that suffice?

MR. CRADDICK: It would depend what would happen with the community plan.

MS. PARSONS: Your estimation, based on your knowledge, what would you say, how many years? As things exist now and knowing what you know.

MR. CRADDICK: It would serve -- if you built a line, it would serve 1,000 gallons a minute flow. That's about 1-1/2 million gallons a day of water which is probably what, two or three thousand [inaudible] A third services.

MS. PARSONS: And how many years do you foresee that to be sufficient, based on the development projects -- well, based on the development projects as it is right now.

MR. CRADDICK: Well, the pipe would last on the order of 75 to 100 years. And again, I would say that it would depend on what would happen with the community. If that ranch were to subdivide up, I mean, you could use up 3,000 services -- if you could sell the lots, if you could build on it --

MS. PARSONS: If they were to -- let's just say this. If they were to subdivide properties up there, could we require the subdivision to increase the lines and could that be part of it?

MR. CRADDICK: We could, yes.

MS. PARSONS: Then I think that's maybe what

we look at from now on. We need this now. Let's get it done. But in the future, any subdivision, make it clear that they have to increase the lines to house the subdivisions. If that becomes the issue. But right now, they need water upcountry.

MR. KOGASAKA: That's a requirement right now.

If anybody wants to subdivide, they need to improve the system from the point of adequacy, which is Kamaole tank and on down. Nobody is going to take on that.

The other concern we would have in this area, we were concentrating on the area from Kamaole tank and beyond and if that area were to be able to use all the water, the transmission system would be inadequate, I would think.

MR. CRADDICK: Do you understand what Herb is saying? Ahead of Kamaole tank, if somebody wanted to do what you're talking about, improvements would have to be made on the upstream side of Kamaole tank so you're talking about some pretty hefty requirements in order to do, you know, anything more than a one or two

lot --

MS. PARSONS: Then that's something that comes up later. But right now we have the existing issues that have to be addressed and I've already seen that the fire flow in the whole county looks like we need to be addressed. So let's get something now -- we had such a drought last year, one match could have set off all of Ulupalakua. Let's not let this go any longer.

CHAIRMAN NAKAMURA: Herb?

MR. KOGASAKA: Well, the intent of the program would be to develop the [inaudible] tank and the section of pipeline, upgrade that section in segments, both moving towards Waiohuli tank and beyond to Kamole tank. And right now we have a design contract to take -- improve the pipeline from the [inaudible] Tank which ends at 12-inch up to the vicinity of Kawihi road area and I think one or two more segments of improvement before we get to Waiohuli and then another

two segments of line possibly down to Kamole tank before we can upgrade the system. And it's a lot of private lands and all that that we need to go through. We're still trying to get the first segment. That will take care of a lot of farmers up to Kawihi Road. There is a lot of farmers on the bottom of Kamole tank area that also could put a lot of demand on the system.

CHAIRMAN NAKAMURA: At the present time, David, or Herb, the problems that are occurring there are due to primarily inadequate lines, inadequate storage, you know, hole in obsolete lines -- how would you characterize the priority of immediate improvement?

MR. CRADDICK: The priority of immediate improvement is getting the line fixed up because we've got inability to transmit water and we've got a lot of line breaks because a lot of the line that was put in was put in as plastic in the mid '70s and that's about as long as it lasts.

CHAIRMAN NAKAMURA: So is there a way in which we could do some short-term improvements while at the same time, as you were saying, you know, looking at long-term building a standard system? On the one hand you don't want to, you know, spend a lot of money that you have to duplicate in 10 or 15 years from now. On the other hand, there is an immediate need.

MR. CRADDICK: I don't believe that there would be any duplication that you would have to do. What you would have to do is just make the improvements like Herb was talking further upstream and you have to start building storage. The line itself, 1,000 gallons a minute, obviously can deliver quite the flow of water. I don't want to say there wouldn't be 3,000 services in Ulapalakua area in a hundred years --

CHAIRMAN NAKAMURA: No, no, we're not talking about a hundred years. I'm asking about the immediate

needs of the existing consumers.

MR. CRADDICK: Well, that is also what meets the basic needs right now of the existing consumers, just putting that 8-inch line that barely meets the existing needs.

CHAIRMAN NAKAMURA: So what are you --

MR. CRADDICK: With the current fire flow requirements.

CHAIRMAN NAKAMURA: So what are you suggesting then?

MR. CRADDICK: I would say to build a system that meets the current standards of the water department and build that [inaudible].

CHAIRMAN NAKAMURA: But the current standards which is fire flow of --

MR. CRADDICK: A thousand gallons a minute.

CHAIRMAN NAKAMURA: Well, if somebody were to come in -- an outside party were to come in and wanting to do something, that's what you would require them to do.

MR. CRADDICK: Yes.

CHAIRMAN NAKAMURA: Mr. Starr?

MR. STARR: I think 8 and 6 is a correct answer and I think we should find a way to move forward getting it done as soon as possible and get those people fire protection and, you know, the existing users a decent supply. And then if someone wants to come in and do a subdivision, they can go and put storage tanks or upgrade the system upstream, but at least we've corrected -- I believe we'll get help from the ranch guys and that they can do the excavation and keep our costs down. And I would like to see what the most direct path toward getting that into this year's CIP and proceed [inaudible].

CHAIRMAN NAKAMURA: When you talk about designing a standard system or a system that meets today's standards, the plan that you're working on, Herb, isn't that what it's designed to do or is it designed to go beyond that in terms of the scope of work.

MR. KOGASAKA: It's basically to meet present design standards. What do you mean by going beyond that? To increase the demands --

CHAIRMAN NAKAMURA: Well, we're charged with putting improvements that comply with the community plan and it keeps getting pointed out to us and so I guess one question is again it seems to be coming up time and again is are we building a system for what's there now or are we building a system that is in compliance with the plan. I recognize that there is some question as to what the plan is out there.

MR. CRADDICK: That's the problem.

MR. HASHIMOTO: There is no plan?

MR. CRADDICK: Yeah, there is no plan.

MR. STARR: No, it's between upcountry and Hana.

MR. CRADDICK: And Kihei.

MR. HASHIMOTO: We should improve the system to serve the existing customers because people in Kanaio, this gentleman here is not getting water at times. I don't think we should worry about additional meters at this time. If they want to put additional meters, they should put up for it. Because I don't think we have enough water for many more meters even though we say they're adequate water, I don't think so.

CHAIRMAN NAKAMURA: Mr. Starr?

MR. STARR: I think if we're looking for a lot

of expansion, we would be going to 12 and 8. But I think that looking at 8 and 6, that we're looking to give minimum fire flow, I think that that's defensible -- we're not, you know, land use planners or controllers, but we have to bring the system up to adequacy and that's what we're talking about. I can't imagine having, you know, anyone give us grief for doing that.

MS. PARSONS: Is there an exorbitant cost difference between like the 6, 8, and 12?

MR. KOGASAKA: There is a cost difference.

MR. CRADDICK: Material wise I believe it's about \$200,000.

MS. PARSONS: What's the overall project going to look like for existing?

MR. CRADDICK: For purchasing all the materials under the scenario that we're talking here,

meeting existing standards, I believe was about \$600,000. That's just the materials now, that's not digging a hole. That's not digging the hole, laying the pipe, and reburying it.

MS. PARSONS: So we're looking at \$200,000 more to --

MR. CRADDICK: To bid it out -- no, no, that's to buy the materials. To bid this job out and award it in a normal manner doing it design, you're talking about four and a half million dollars.

MS. PARSONS: I'm saying you dig the hole and you're laying the pipeline, you just dig the hole [inaudible] penny wise and pound foolish not to [inaudible] to start with? Are we doing another Haleakala Highway, is what I'm asking. I don't want to see another three-lane highway.

MR. CRADDICK: Again, if we're going to go into some area where there is no plan and build for

something where there is no plan, what do you build for?

MS. PARSONS: Good, that's what wanted to know.

MR. CRADDICK: That's our problem. That's why we can't give the scope of work to the guy.

MS. PARSONS: See, that's what I wanted to hear from you. Because if that's the case, then we do, we go back to build for the existing community. If somebody wants to upgrade it, they pay to upgrade it at that point.

CHAIRMAN NAKAMURA: Herb?

MR. KOGASAKA: There are 82 meters in that area presently and there is some meter applications on the priority list amounting to -- how many on the priority list that are requesting meter in Ulapalakua?

MR. CHANG: Is this existing lots?

[Inaudible].

MR. KOGASAKA: Oh, it's not on the list?

That's right. Okay. In other words, there are lots that are entitled to meters that are not getting meters because of that failing to do the improvements.

CHAIRMAN NAKAMURA: So isn't it possible to take that into -- Clark is talking about serving existing meters. You're talking about quantifying those on the priority list. I mean, I would think that's possible to do.

MS. PARSONS: Would that 8-inch suffice?

MR. CRADDICK: I don't know where all these --

MS. PARSONS: Let's just say what's most important right now is what sits here existing today which means existing customers and the applications that are in are one. Okay? Let's just say that

that's the case. That's the universe. Does the 8-inch service that? If it doesn't, then you need to look at the 12.

MR. CRADDICK: I believe it would. I believe it would take care of that for the most part. Now, there may still -- not look at detail, there may be some problem areas because I know we're only going to Kanaio and the three laterals coming down. We're not talking about going to Kanaio and coming back to the main road and going down below Ulapalakua where there is a whole bunch more that would want meters. I know there is a whole bunch more that would want meters.

MS. PARSONS: Not "would want." I'm talking applications in today. "Would want" they can put in their own lines. "Would want" is later. But the applications as they exist today and the existing meters that are there that need fire flow, if that 8 inches -- if that 8-inch suffices, I would recommend we go with the 8-inch and then anybody who comes at a later date, then they have to upgrade the system. Or

they come in before we upgrade and come before the board.

MR. CRADDICK: I believe it would, but in the proposal that was submitted before, I know there was some portion of 12-inch -- a short portion right after the Kamaole tank and the reason for that was because of the slope of the land. And I'm presuming that that's why that had to be 12-inch there. Not because it's serving more water but because of the slope of the land. But it was a short segment, I believe two or three thousand feet out of a total of -- yeah, five miles. So 525,000. So approximately [inaudible] or 12 percent of it is 12-inch.

MS. PARSONS: On this information, could your department draft up a plan for the water [inaudible] --

MR. CRADDICK: Yeah, sorry I didn't bring it. Howard told me to bring it with me.

MS. PARSONS: But I mean could you draft up a plan based on --

MR. CRADDICK: We have that already and I should have brought it with me. Howard told me to bring it with me and I --

MR. KOGASAKA: The area that would be feeding this 12-inch line would consist of 8- and 6-inch pipes to a large extent.

CHAIRMAN NAKAMURA: Okay. Basically this item is on the agenda as an update. I think the concerns of the committee members as well as board members could be incorporated in the report that we make to the full board. Perhaps it might be appropriate for at the board meeting the director be prepared to suggest a course of action, seems to be the desire. While at the same time I think it is important to look at long term, but there is clearly a need. Any other comments?

MR. HASHIMOTO: One more question. Do you

have that commitment by Ulapalakua, right, that they are going to help with the trenching on their property?

MR. CRADDICK: Verbally.

MR. HASHIMOTO: So I don't know if we need a more strong commitment from them if we're going to go through with the project.

MR. CRADDICK: Maybe we can get something by board meeting time.

CHAIRMAN NAKAMURA: Yeah, Mr. Baskin.

MR. BASKIN: Thank you. I just have one more question because I've been coming to these meetings and I appreciate you putting some input and working forward to getting it done. And I'm sure that in time it will be, though it's taken now I believe a little over a year at least I've been coming to the meetings.

And my question is that if the board did go ahead and decide to put in an 8-inch line and if the ranch -- Ulapalakua Ranch provides that they are going to help, how long would this take? How long could I expect, you know, approximately from the time that you got started will it take to do this so that we would actually start to have adequate water?

MR. CRADDICK: I think we'd have to look at that. We'll try and get that.

CHAIRMAN NAKAMURA: I think it would be difficult to answer that question right now. I think it depends on a number of factors. [Inaudible] Departmental assessment. [Inaudible] the alignment is going to fall in the same alignment. [Inaudible] .

Mr. Hashimoto?

MR. HASHIMOTO: How many miles is that of pipeline would it be?

MR. CRADDICK: I believe it was on the order of 25,000 to 30,000 feet.

MR. HASHIMOTO: Six miles.

MR. STARR: Approximately six.

CHAIRMAN NAKAMURA: Okay. Any other comments?

Okay. Thank you, Mr. Baskin. As far as other projects, I think we've probably overstayed our welcome, but anything new on the Pookela well? What's the status of Pookela?

MR. CRADDICK: We'll have something for the board. There was one bidder, the price came in \$114,000 over the estimate, but the estimate that we had in the board's proposal has already been reduced down by \$67,000 which was the design portion of it. So we're short by -- \$67,000 short of a million dollars.

Now, as far as the bid of \$1.114 million,

we're negotiating with them to try and get that down about \$100,000 to get right in the million dollars range, but we would still have to have appropriation of the board of that \$67,000 we need used for design, plus whatever amount goes over a million dollars. We had a million dollars in the budget and what I'm saying basically is we're going a little bit over plus we already used some of that money. So we're looking at something less than \$100,000 appropriation to sign the contract.

CHAIRMAN NAKAMURA: Okay. I think that's good information for the board to be prepared for. Any other questions on major projects that we want an update on board members or committee members?

Mr. Hiranaga?

MR. HIRANAGA: Not exactly specific projects, but just a quick overview of the budgeting process. When does it start?

MR. CRADDICK: At the next board meeting we'll

be submitting the budget and then from there it will be up to the board how they want to do it. If they want to have a special meeting just on the budget, full board, that would be the best because we could most the quickest there. And then whether you need one or two meetings and then schedule a public hearing.

There has been some debate about the public hearing time. We asked corp counsel to give a review and I don't know if Richard has talked with Ed at all on that on time we need for notice of public hearing. But I would expect there to be some public hearing. Typically we've given two weeks' notice in the past and then after that, the board would make the final decision on the budget.

MR. HIRANAGA: The proposed budget would be submitted to us next week.

MR. CRADDICK: Yes.

MR. HIRANAGA: So that would be given to us in our packet.

MR. CRADDICK: I believe so.

MR. HIRANAGA: Thank you.

CHAIRMAN NAKAMURA: Okay. Any other questions? Comments? If not, entertain a motion to adjourn.

MR. HIRANAGA: So moved.

MR. HASHIMOTO: Second.

CHAIRMAN NAKAMURA: Moved and seconded to adjourn. All those in favor? Opposed? We are adjourned. Thank you for your patience, everyone.

(WHEREUPON, the hearing was concluded at 11:40 a.m.)

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