

**SPECIAL MEETING**  
**BOARD OF WATER SUPPLY**  
**Tuesday, August 1, 2006**

The Board of Water Supply, County of Kaua'i, met in special meeting at its office in Lihu'e on Tuesday, August 1, 2006. Chair Josephine Sokei called the meeting to order at 11:05 a.m. On roll call, the following answered present:

BOARD: Ms. Josephine Sokei, Chairperson  
Mr. Ian Costa  
Mr. Donald Fujimoto  
Mr. Steven Kyono (present at 11:20 a.m.)  
Ms. Lynn McCrory  
Ms. Bernie Sakoda  
Mr. Myles Shibata

STAFF: Ms. Wynne Ushigome  
Mr. Paul Ganaden  
Mr. Gregg Fujikawa  
Mr. Les Yoshioka  
Mr. Bruce Inouye  
Mr. Keith Fujimoto  
Mr. Edward Doi  
Mr. Jim Tagupa, Deputy County Attorney

GUESTS: Mr. Bernard Carvalho, Community Housing Agency Director (left at about 12:30 p.m.)  
Mr. Ken Rainforth, County Public Housing Agency (left at about 12:30 p.m.)  
Ms. Tracy Nagata, DR Horton/Schuler Homes (left at about 11:45 a.m.)  
Mr. Allan Smith, Grove Farm Company (left at about 11:30 a.m.)  
Mr. Dave Hinazumi, Grove Farm Company (left at about 11:30 a.m.)  
Mr. Bob Akinaka, Akinaka & Associates (left at about 11:30 a.m.)  
Mr. Henry Morita, Akinaka & Associates (left at about 11:30 a.m.)  
Mr. Ben Ganal, Akinaka & Associates (left at about 11:30 a.m.)  
Mr. Kaipo Asing, County Council Chair (left at about 12:30 p.m.)

**AGENDA**

Ms. McCrory moved to approve the Agenda, seconded by Mr. Fujimoto; motion was carried.

**NEW BUSINESS**

**Re: Board's Request to Review Pending County's Affordable Housing Projects Based on Testimony by Mayor Bryan Baptiste and Mr. Bernard Carvalho that was given at the June 27, 2006 Special Meeting and the July 18, 2006 Regular Meeting of the Kauai Board of Water Supply**

Mr. Bernard Carvalho of the Office of Community Assistance, Mr. Ken Rainforth of the County Housing Agency and Ms. Tracy Nagata of DR Horton/Schuler were present at this meeting.

Acting Manager Ushigome reported on the following:

Recommendation:

Although we recognize the affordable housing shortage as an issue, the Department needs to effectively manage and operate its water systems by utilizing and applying a consistent engineering basis to justify water system improvements and requirements for new developments. Therefore, the Department recommends the following:

**DR Horton/Schuler, Hookena, Puhi:** The Department recommends accepting Grove Farm's commitment to construct and complete, all necessary booster pump station and 16-inch water transmission main improvements prior to issuance of the certificate of occupancy for the Hookena Development. Since the 16-inch transmission main is essentially a functional component of the booster pump station and since it is not conveying "delivered water" from the Water Purification Facility to the Puhi 510 system, there is no "cost-share" commitment by the Department to pay for this section of waterline improvements.

In addition, we recommend that the Board approve allowing Grove Farm and DR Horton to execute a *Waiver, Release and Indemnity Agreement*. This agreement (including a bond for the infrastructure improvements) would allow the developers to receive building permits approvals prior to the actual construction completion and conveyance of the required water system improvements to the Department of Water.

Discussion

Acting Manager Ushigome stated that she met with Grove Farm last week Friday and yesterday to review the hydraulic analysis that Grove Farm's consultant, Akinaka and Associates, had submitted to the DOW. She thanked Grove Farm and Akinaka for running various hydraulic analysis to see what is the best functioning system. Grove Farm also submitted a letter to the Board that provided for options to resolve their situation to get final approval from the DOW.

Acting Manager Ushigome gave some background on Grove Farm's water requirements for this project, which was required to provide a booster pump station. In order to transport 'delivered' water from the Water Purification Facility to their project, there was a constraint of a small waterline between the Lihue Hongwanji Church in Kapaia and Wilcox Hospital.

Acting Manager Ushigome explained that the following Grove Farm's proposed projects would be serviced by the booster pump station. In order to assist Grove Farm with their projects, the DOW in good faith partnered with Grove Farm with the Water Purification Facility. In order to support their proposed projects, this booster pump station is required and they are now working on the hydraulic analysis to see if the booster pump station would be capable of handling the requirement of 400 gallons per minute (GPM). She felt that to support their proposed developments, Grove Farm would need to also improve the transmission line, in addition to the booster pump, in order to convey water to the Puhi 510' System.

She added that the booster pump and its components, which included the transmission line, is a Grove Farm requirement.

[This recommendation is also for the Self-Help Puhi Project.]

Acting Manager Ushigome stated that the DOW and Grove Farm have a different understanding of how this transmission main should be cost shared.

Ms. McCrory asked if Grove Farm is responsible to provide all of their infrastructure for their projects at their cost and is this source for their other projects and not including the affordable housing projects? Acting Manager Ushigome concurred. She explained that the DOW has another agreement with Grove Farm regarding their source, storage and transmission. In that agreement, Grove Farm were responsible for the source, storage and transmission then they would not be assessed the facilities reserve charge (FRC). Ms. McCrory asked if the 16-inch main is part of the other projects (market price)? Acting Manager Ushigome stated that the function is getting its source from the Kilohana Well versus the Water Purification Facility.

Board Member Shibata and also President of Grove Farm Company recused himself from decision-making for DR Horton/Schuler Project and the Self-Help Housing Subdivision at Puhi.

Allan Smith, Vice President of Grove Farm Company, Inc.

Mr. Smith thanked the Board for having them. He stated that the only difference of opinion between Grove Farm and the DOW is the interpretation of the water that the Kilohana Wells will service the western side of the system, which will free up water from the Water Purification Facility to service the eastern side.

Mr. Smith stated that they do not want to belabor too much on the cost sharing issue as they do have bigger and more substantive future projects. If this does not qualify for cost sharing per their water agreement, perhaps other projects that come online may qualify for cost sharing like the transmission main from Maalo Road to Wilcox Hospital or a transmission line on their cane haul road.

*Mr. Kyono was present at the meeting at about 11:20 a.m.*

On query by Ms. McCrory, Mr. Smith stated that they have no problem with the Waiver, Release, and Indemnity Agreement, which is standard, and they will bond the project.

On query by Ms. McCrory, Mr. Smith stated that the completion date for this project is March, 2007.

Mr. Smith stated that once they move forward and the project is completed, they request a preliminary allocation of water. Acting Manager Ushigome clarified that the improvements would be completed about the same time as the project? Mr. Smith concurred as long as things are timely. He added that if the homeowners are about ready to occupy, and their project is bonded and under construction and it is imminent that the project will be finished, would it be possible to get some water allocation made to allow the homeowners to occupy their house. Ms. McCrory stated that it would be dependent on how many homeowners were ready. Mr. Smith concurred and stated that this is something that will be addressed in the future and it would be dependent on how close they are to project completion at that time.

On query by Mr. Costa, Mr. Smith stated that the Self-Help Puhi Project schedule is that it has not been awarded yet but due to start soon. They need to do the on-site improvements and go through the self-help process; the proposed completion date is August, 2007.

On query by Acting Manager Ushigome, Mr. Smith stated that a contractor would do the site improvements (not part of the Self-Help process). On query by Mr. Costa, Mr. Smith stated

that the on-site work was already contracted by the landowner, Self-Help Corporation. The Self-Help Corporation had purchased Grove Farm's lands.

Ms. McCrory moved that we accept staff's recommendation for DR Horton/Schuler and the Self-Help Puhi Project, seconded by Mr. Costa; motion was carried. (Note: Mr. Shibata recused himself from voting on these 2 projects.)

Ms. Tracy Nagata of DR Horton/Schuler

Ms. Nagata thanked the Board for a concerted effort to help Hookena at Puhi proceed forward and hopefully get some affordable housing online. She thanked Acting Manager Ushigome and her staff and Grove Farm and their consultant, Akinaka, for meeting and troubleshooting the issues and finding a solution. I appreciate the issuance of a building permit so that they can get started.

They agree that have entered into a Waiver, Release and Indemnity Agreement with the DOW for the booster pump and the details to be worked on along with the new transmission line requirement. They will work with Acting Manager Ushigome and Jim Tagupa on that.

She appreciated the Board's contingency plan as they get closer. She gave an update that they are working with Ken Rainforth's Office on sales documents that have gone out to potential homebuyers. They are having their groundbreaking tomorrow and she invited everyone at the site.

They request that maybe a few months prior to March, 2007, which is their targeted date for first occupancy, when they would be required to get a Certificate of Occupancy, they want to re-address at that time the issue of the status of the booster pump and the transmission line. If that does not look like it would coincide with the March, 2007 Certificate of Occupancy, she requested to re-address the issue and meet with the Board again.

On query by Ms. McCrory, Ms. Nagata stated that if all goes well, they hope to finish by the projected date of September, 2007.

**Self Help Housing Subdivision, Puhi:** Similar to DR Horton/Schuler, Hookena project, the Department recommends accepting Grove Farm's commitment to construct and complete, all necessary booster pump station and 16-inch water transmission main improvements prior to issuance of the building permit approvals for the Self Help Housing project. Since the 16-inch transmission main is essentially a functional component of the booster pump station and is not used to transmit the surface water to the Puhi 510 system, there is no "cost-share" commitment by the Department to pay for this section of waterline improvements.

*(Note: Self-Help Puhi Project's approval is stated under Hookena's Project above.)*

Mr. Smith, Mr. Hinazumi, Mr. Akinaka, Mr. Morita, and Mr. Ganal, all left the meeting at about 11:30 a.m.

**DHHL Anahola Residential Lots Subdivision:** The Department has proposed to develop Anahola Well No. 3 and is tasked to complete the source facility by July 2007 in order to provide the DHHL subdivision with an adequate source supply for their affordable housing subdivision. As such, we recommend deleting the source requirement from the DHHL tentative subdivision approval conditions.

At the December 2005 Board Meeting, the Board approved funding for the development of Anahola Well No. 3. Subsequently, the Department has contracted Akinaka and Associates, Ltd. for designing and permitting of this well. DHHL's schedule for their Unit 6 project is aggressive; they intend to start construction during mid 2007. The Department applied for the pump installation permit and received acceptance from the State Commission on Water Resource Management.

Mr. Costa moved to approve staff's recommendation, seconded by Ms. McCrory; motion was carried.

**DR Horton/Schuler, Kohea Loa, Hanamaulu:** We recommend that the Board support the Department's water master plan condition for the development. The County has required the developer to prepare an infrastructure master plan that includes a water master plan. Once the water master plan is approved, the water system improvement requirements shall be developed prior to issuance of water to the development. Approval of the building permit or water meter for this project will be dependent on the completion of said water improvements by the developer. This project is situated outside of the Lihue-Hanamaulu service area; therefore, the developer is required to provide all necessary water infrastructure improvements for the development.

#### Discussion

Acting Manager Ushigome stated that this project is for the Hanamaulu Triangle project. She added that the water demand calculations were not received yet by the DOW.

#### Ms. Tracy Nagata

Ms. Nagata stated that they are developing the Hanamaulu Triangle Project; whereby, they purchased lands from Grove Farm. She added that they have submitted a Water Infrastructure Master Plan to the County, which included their entire area including the Hanamaulu Triangle area. On query by Ms. Nagata, Acting Manager Ushigome stated that they did not have to submit a separate master plan for only the Hanamaulu Triangle area. To expedite the process, Ms. Nagata will make sure that the DOW gets their personal copy of the Water Infrastructure Master Plan. In fact, the DOW was scheduled to meet with their consultant, Kodani and Associates, this week.

On query by Ms. McCrory, Ms. Nagata stated that in order to meet their start date they have several approvals that they need. The immediate approval would be for the Planning Department to approve the Water Infrastructure Master Plan, which the DOW would need to submit their comments. Ms. Nagata added that they also have another layer of approvals for the Class IV Zoning Application, which is contingent upon their Land Use Commission (LUC) approvals.

On query by Ms. McCrory, Ms. Nagata stated that since they have not started talking to the DOW about their project, she felt that it was premature to say what is the time frame that they would need a response from the DOW on their Water Infrastructure Plan.

Mr. Costa added that the Planning Department would condition the DOW's approval recommendation as part of the Planning Department's process; therefore, it was not necessary to get an immediate DOW's approval. However, they would need the DOW's approval prior to building permit approval.

On query by Ms. McCrory, Ms. Nagata stated that their site work targeted start date is December 6, 2006.

On query by Mr. Fujimoto, Ms. Nagata stated that their Purchase Agreement with Grove Farm would dictate who would be responsible for the water infrastructure improvements and she could not remember exactly what off-site improvements were needed.

On query by Ms. McCrory, Mr. Fujikawa stated that he would put a priority on the review of the Water Infrastructure Plan and that they rely on the consultant to submit the required information in order to assist the DOW's review process. He also recommended having face-to-face review meetings to expedite the review process.

On query by Ms. McCrory, Mr. Fujikawa stated that they can do the review in-house and would not need additional assistance.

In order to define a timeline in order to start their site work by December, 2006, Mr. Costa stated that their project would need to be on the Planning Department's agenda by early September as there is a 60-day public hearing process, then they would need to apply for a building permit.

On query by Ms. McCrory, Mr. Fujikawa stated that it would be prudent to keep the Water Infrastructure Plan to encompass the entire project area instead of only the Hanamaulu Triangle area, which would help with the long-range planning of the area. On query by Ms. McCrory, it was agreed that the process could be adjusted if it looked like the long-range planning process of the entire area would hinder the progress of the smaller area, the Hanamaulu Triangle. Ms. Nagata added that they are partnering with Grove Farm and have a great relationship so she is confident that they would be able to work through any obstacles.

Acting Manager Ushigome concurred with Mr. Fujikawa that they would prefer to have a comprehensive master plan.

Mr. Fujimoto added that a possibility could be that, in the interim, the DOW could approve water meters for only affordable housing. Ms. Nagata stated that it may not be possible to separate the affordable housing units from the rest of the project as their affordable housing is interspersed with the market value housing. Their project has about 400 homes with about 40% of that being affordable.

Ms. Nagata will have their consultant run off a copy of the Water Infrastructure Plan for the DOW's meeting with their consultant.

Mr. Costa stated that the Planning Department process, per the zoning ordinance and LUC approval that will condition the project as a whole. On query by Ms. McCrory, Mr. Costa stated that the only way you can change is to go back to the County Council and the LUC.

Ms. Nagata thanked the Board and left the meeting at about 11:47 a.m.

(No action at this time)

**Kauai Lagoons Affordable Housing, Lihue Industrial:** We recommend that the Board support the Department's condition for water demand calculations to determine existing

water meter capacity. The Kauai Lagoons affordable housing project is located on the Kauai Lagoons site in Lihue. The site is serviced by existing water meters that is shared with the Marriott Hotel and other customers. The Department has required the Kauai Lagoons development to determine if there is additional capacity from the existing water meters to provide water supply to their entire development. Based on this evaluation of the proposed water demands, Kauai Lagoons shall conclude whether there is sufficient water meter capacity from the existing meters to supply the affordable housing project. In addition, the Marriott should provide notice and acknowledgement from all users of its intent to reallocate the existing water meter capacity.

Discussion:

On query by Ms. McCrory, Mr. Fujikawa stated that they initially did a water demand study before they applied for their re-zoning. The DOW has responded and have requested further information and clarification if there is any existing reserve capacity with their existing water meters. The DOW views their meters as being oversized and capable of handling more development. It depends on their actual consumption and what are their future plans. There are 2 large water meters that service the Marriott Hotel complex, which Kauai Lagoons connects to. The Kauai Lagoons also have a 4-inch meter along Kapule Highway that services the golf course and the landing area. So, the DOW needs to know what Kauai Lagoon's reserve capacity can handle in terms of their full growth and if there is enough water to eliminate water system improvements. However, if it is found that there is not enough water, they would need to figure out what needs to be done so that they can get the additional water for their project.

Mr. Costa stated that the message of the DOW is that in light of their doing future projects, they need to address their future projects with a commitment to take care of the affordable housing.

Ms. McCrory asked the staff to followup with Kauai Lagoons. (No action at this time.)

*(Ms. Sakoda was keeping a tally of 488 available affordable housing units so far once these previous projects are done.)*

**Kekaha State EO Parcel:** Recommend that the Board review source and storage conditions for the project. Based on the affordable housing time schedules as presented at the July Board Meeting, realistically the Department would need additional resources to complete its source and storage projects servicing this area by July 2007. Currently, the Department has initiated a feasibility study to rehabilitate the former AMFAC Shaft 11 and has plans to construct a 0.5 MG storage tank at the Kapilimao Well site. However, completing both projects before July 2007 is highly unlikely.

**Mahelona State EO Parcel:** We recommend that the Board review source and storage conditions for the project. Based on the affordable housing time schedules as presented at the July Board Meeting, realistically the Department would need additional resources to complete its source and storage projects servicing this area by July 2007.

Currently, the Department is proposing to rehabilitate the Akulikuli Tunnel and constructing the Kapaa Homesteads 0.5 MG storage tank at the Makaleha Tank site. However, again completing both projects before July 2007 is highly unlikely.

**Kaapuni State Parcels:** Same as above items, recommend that the Board review source and storage conditions for the project. Based on the affordable housing time schedules as presented at the July Board Meeting, realistically the Department would need additional resources to complete its source and storage projects servicing this area by December 2008.

**Hundley State Parcel:** Same as above items, recommend that the Board review source and storage conditions for the project. Based on the affordable housing time schedules as presented at the July Board Meeting, realistically the Department would need additional resources to complete its source and storage projects servicing this area by December 2008.

Discussion

On query by Ms. McCrory, Acting Manager Ushigome concurred that all of these State parcels have the same issues.

Mr. Bernard Carvalho:

On query by Ms. McCrory, Mr. Carvalho stated that the priorities of the 4 State projects above are basically equal and working it as a group.

Mr. Fujimoto recommended that the best avenue to expedite these State projects that need water would be to go the design-build route, which would get you a better product.

On query by Mr. Fujimoto, Mr. Kyono stated that it would be a legal question on whether water development could be tasked to the developer. The next step would be to do design-build.

Ms. McCrory suggested that a bigger company could be used to ensure that the timeline of December, 2008 is met. Acting Manager Ushigome stated that it would become a procurement issue.

Ms. McCrory stated that some of these projects for the 4 State parcels are part of Water Plan 2020 so we should have already scheduled some of the projects.

Mr. Fujimoto discussed that we need to resolve the funding issue that would eliminate the procurement issue. The Water Plan 2020 projects could be aligned to assist the County with developing these State parcels. He also stated that the County's targeted dates are very ambitious. He added that 2 of our water projects would take care of all water concerns for the 3 of the Kapaa State parcels.

On query by Ms. McCrory, Mr. Carvalho stated that there are no real issues with wastewater as they have options to take care of that.

Ms. McCrory moved to approve to have the DOW to seek a consultant to contract out the shaft, wells, tunnels for the 4 State parcels and completed with a target date of December, 2008.

On query by Ms. Sakoda, Ms. McCrory stated that we should include Kekaha to see if it can be done; and if not, we can notify Mr. Carvalho.

Motion was seconded by Mr. Kyono.

Mr. Fujimoto wanted to clarify that in the broader sense, we could actually hire a consultant through the Request for Qualifications (RFQ) process to actually do our procurement process to do our design-build documents.

Ms. McCrory moved to amend her motion to consult with RW Beck and to also include Mr. Fujimoto's recommendation.

Mr. Kyono mentioned that the American Water Works Association (AWWA) would have a wealth of useful information that could help us.

Deputy County Attorney Tagupa stated that it was premature to name a consultant as we would need to check if they could do that type of work.

Ms. McCrory moved to re-amend her motion to eliminate RW Beck but to also include Mr. Fujimoto's recommendation.

Motions were seconded by Mr. Kyono; motion was carried.

Funding: Not at this time.

Background:

The Department prepared a status report summarizing the outstanding issues for each of the following affordable housing developments:

**DR Horton/Schuler, Hookena and Self Help Housing Project:** Grove Farm allocated the source for these projects from the Grove Farm Water Purification Facility (WPF) in Kapaia. The booster pump requirement satisfies the system improvements necessary to deliver water from the WPF to the Puhi 510 system. Other Grove Farm projects located in the Puhi 510 system with source allocation from the new surface water source are listed as follows:

<u>Location</u>	<u>Units</u>	<u>Area</u>	<u>ID</u>
Regency Pacific Elderly Housing	82 MF	3-3-03:por.1	Z-IV-99-45
Villas at Puali (Parkside Homes)	104 SF	3-3-03:39	S-2003-37
Kukui Village West	31 SF	3-3-06:19	S-88-85
Pikake Subdivision (510 Portion)	27 SF	3-3-03:por.1	S-2004-12
Self Help (Parcel 4)	41 MF	3-3-03: por 40	S-2004-34
Regency Pacific (Huleia)	83 SF	3-3-03:48	Z-IV-2005-1
Regency Pacific (Huleia – Irrigation)	22 SF	3-3-03:48	Z-IV-2005-1
Costco Wholesale	12 SF	3-3-10:51	Z-IV-2005-17
KGWV (add water for Ventura)	12 SF		
Parcel 19 & 20 (across Puhi Middle School)	62 SF	3-3-03:46	FUTURE
DR Horton/Schuler (Hookena)	<u>56 MF</u>	3-3-03:36	Z-IV-92-9
Total Units	138 MF 394 SF		

The following information was included in this Board Report that was previously provided to the Board in their agenda packet:

Item 1: Grove Farm Booster Pump Issue

Board Request: Meet with Grove Farm on the Booster Pump Hydraulic Modeling

The DOW met 2 times to review the booster pump hydraulic modeling.

Item 2: Source, storage, transmission & related Water Plan 2020 projects

Board Request: Are there water issues with DHHL, Anahola, DR Horton/Schuler, Kohea Loa, Kaua'i Lagoons, Līhu'e Industrial, or Paanau Village II

A spreadsheet was distributed to the Board on the water requirements for the County's proposed affordable housing projects.

Item 3: Transmission issues Eleele, Kīlauea, Kapa'a County Baseyard

Board Request: What are the waterline requirements for 'Ele'ele, Kīlauea and Kapa'a County Baseyard, Ohia Street

The location for the 'Ele'ele and Kīlauea projects have not been designated yet. The project at Kapa'a County Baseyard needs to have an upgraded with an 8-inch mainline extension approximately 300 feet in length.

Item 4: Source and Storage status for existing and new facilities & Pending development lists

Board Request: What are the pending developments that already had water allocated?

Several worksheets by water system areas were given to the Board to show which projects already had water allocated.

The Water Plan 2020 Projects that are affected include:

Kekaha Shaft 11  
Kapilimao Tank, .5MG  
Akulikuli Tunnel  
Kapaa Homesteads Well No. 4  
Kapaa Homesteads Tank, 0.5MG

Mr. Ken Rainforth

Mr. Rainforth stated that Kohea Loa Parcel 4 is DR Horton's single-family subdivision project, which is already zoned and going in for subdivision approval. It is not part of the Lihue/Hanamaulu Master Plan LUC or zoning requirements. This project can move forward, that is why there is an earlier date. He added that Kohea Loa Parcel 1-3 would consist of multi-family projects, which Class IV Zoning permit process has begun. These 2 projects will be developed together unless one of the projects has stalled for some reason.

Mr. Rainforth added that they will be doing 40% affordable housing in that Hanamaulu Triangle area.

On query by Ms. McCrory, it was mentioned that the Eleele project may consist of either single family or multi-family dwelling units. Mr. Rainforth added that the Mayor wanted to develop in the Eleele area since water is available.

On query by Ms. McCrory, Mr. Rainforth stated that it was not known if the Kilauea area would have single-family or multi-family dwelling units. However, Mr. Rainforth stated that when they did the General Plan Update, the area was called Kilauea North and it showed both single-family and multi-family dwelling units. However, Kilauea is at a halt as there are major water concerns in that area.

On query by Ms. McCrory, Mr. Rainforth stated that the Kapaa Baseyard area would consist of multi-family dwelling units. The County will be requesting that the Governor revise the Executive Order to have the County possibly build senior affordable housing units as it is no longer used as a Parks Division baseyard.

On query by Ms. McCrory, Mr. Rainforth stated that Paanau Village will have multi-family dwelling units. Mr. Rainforth stated that they just met with A&B/Kukuiula to check on the progress. He added that A&B's infrastructure issues would resolve the County's infrastructure issues. He also added that when A&B builds the western bypass, they will be donating a 3.5 acre parcel that is located between the existing Paanau Village and the western bypass. This parcel will have about 60 multi-family dwelling units. The County will be able to feed off the A&B water and sewer treatment system plants.

*(Ms. Sakoda's current tally was 720 available affordable housing units.)*

Ms. Sakoda pointed out that these projects will not cost \$30 million as the cost for the Akulikuli Tunnel was recorded 3 times instead of once; therefore, we are looking at a \$20 million cost instead.

On query by Mr. Costa, Mr. Carvalho stated that their survey showed that Kauai has a need of about 2,000 affordable housing units so this is a great start.

Ms. McCrory stated that the DOW would work with the County whenever there are more proposed affordable housing projects.

Mr. Carvalho thanked the Board and staff for all of their support. The Board also thanked the staff for the hard work. Mr. Fujimoto thanked Acting Manager Ushigome for a great presentation that was very easy to follow. Acting Manager Ushigome in turn thanked the staff for all the hard work.

Mr. Carvalho, Mr. Rainforth and Mr. Asing left the Board Meeting at about 12:30 p.m.

At the July 18<sup>th</sup> Regular Board Meeting, the Board requested the County Attorney's Office opinion on whether transferring water allocations from one development to another is acceptable. More specifically, does the granting of a conditional approval for a subdivision, zoning and/or use permit require the Department to allocate water system capacity to these proposed developments? Acting Manager Ushigome asked Mr. Tagupa for the status of this legal opinion on whether the DOW could give away water that was already 'banked' for an existing customer that did not build yet. Mr. Tagupa stated that legally we are covered per Section XII, Modification of Requirements of the DOW's Rules and Regulations.

Ms. McCrory stated that the question is really whether the water is a reserve or do they have a right to the water. Deputy County Tagupa stated that a reserve is an engineering terminology for allocation.

Mr. Fujimoto added that he wanted a legal opinion on the facilities reserve charge (FRC). Acting Manager Ushigome's interpretation is that the FRC payment is the right to the water based on the past cost; customers have to pay their fair share to pay for the development of the source, storage, and transmission. Mr. Fujimoto's interpretation of the FRC payment is for the next guy to have that same privilege.

Deputy County Attorney Tagupa stated that when the DOW grants the customer their building permit, they have the right to get the water when they need the water. The customer would also have to comply with having their water system in place, to have their infrastructure in place, etc. So he felt that payment of FRC only does not entitle you to get a water meter.

Mr. Fujimoto requested a legal opinion as he felt that once you pay the FRC, you are entitle to water. Mr. Costa concurred.

Mr. Fujikawa explained the DOW's subdivision process; whereby, an applicant may have a couple of conditions before he can get subdivision approval. The applicant would have to pay his FRC for his water meter and he may have other water requirements like installing waterline extensions, etc. FRC payment is immediate; however, water requirements that deal with construction takes a longer period of time. He stated that the norm would be for the applicant to pay his FRC payment then he would ask for his water meter next.

Mr. Fujimoto stated that there are situations when it is a known fact that there will be water outages, but these things happen and people understand. They would not sue in these situations.

Mr. Kyono explained that there was a situation in the Wailua area when a pump went out and the DOW asked the community to conserve water.

Acting Manager Ushigome stated that asking the community to conserve water, etc. is the last resort as you would rather have that there is an adequate supply of water.

Recess: 12:35 p.m. to 1:20 p.m.

Acting Manager Ushigome and Mr. Kyono were excused from the Executive Session Meeting and left the meeting at about 1:20 p.m.

Chair Sokei read the following:

### **EXECUTIVE SESSION**

Pursuant to Hawaii Revised Statutes (HRS) §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

- 1. Review of Board of Water Supply Executive Session Meeting Minutes: None**

## 2. Executive Session

**ES-1:** Pursuant to Haw. Rev. Stat. §§92-4, 92-5(a)(2), the purpose of this executive session is to permit the Board of Water Supply to deliberate upon and consult with the Board's legal counsel on questions and issues relating to the hiring, evaluation, dismissal or discipline of an officer or employee where consideration of matters affecting privacy will be involved, with regards to fill the vacant Civil Engineer VII, EM-7 (Chief of Engineering Division) position within the Kaua'i County Water Department.

This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Board and the Department of Water as they relate to this agenda item.

The Board may take any appropriate action or make any decision arising from its deliberations concerning this item. Actions may be taken or decisions may be made in executive session pursuant to Haw. Rev. Stat. §92-5(b).

There was no public testimony.

Mr. Shibata moved to go into Executive Session at 1:23 p.m., seconded by Mr. Fujimoto; motion was carried.

The Regular Meeting reconvened at 2:25 p.m.

Ms. McCrory moved that we remove the EM-7 position and create two EM-5 positions in the Engineering Division and that we ask DPS to provide us with the position descriptions for the August 15, 2006 Board Meeting, one of the positions to be structured to look at handling nothing but Water Plan 2020 projects and the other position to do everything else, seconded by Ms. Sakoda.

Mr. Fujimoto commented that since there are 2 division heads that deal with Water Plan 2020, you do not want to carve out who does what. The Board should be more functional and delegate this to the Manager. We do have a capable Acting Manager. Ms. McCrory complimented Acting Manager Ushigome that she did a commendable job to assemble background information to assist her to go to the previous Council Meeting.

### **ADJOURNMENT**

There being no further business, Mr. Costa moved to adjourn the meeting at 2:30 p.m., seconded by Ms. Sakoda; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome  
Acting Manager and Chief Engineer

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