

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, August 14, 2008

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, August 14, 2008. Chairperson Roy Oyama called the meeting to order at 9:10 a.m. On roll call, the following answered present:

BOARD: Mr. Roy Oyama, Chairperson
Mr. Ian Costa (left meeting at about 2:00 pm)
Mr. Dee Crowell (left meeting at about 11 am)
Mr. Steven Kyono
Mr. Randall Nishimura

Absent & excused: Mr. Donald Fujimoto
Mr. Leland Kahawai

STAFF: Ms. Wynne M. Ushigome
Mr. Paul Ganaden
Mr. Gregg Fujikawa
Mr. William Eddy
Mr. Keith Fujimoto
Mr. Bruce Inouye
Ms. Faith Shiramizu
Ms. Amy Esaki
Mr. Edward Doi
Mr. Dustin Moises
Ms. Heather Kubota, Summer Intern
First Deputy County Attorney Harrison Kawate (left meeting at about 11 am)

GUESTS: Ms. Ann Hajnosz, RW Beck (left meeting at about 11 am)
Mr. Tom Jacobs, RW Beck (left meeting at about 11 am)
Mr. Mark Salmon, RW Beck
Mr. Lindsay Crawford, Kukui'ula Development LLC (left at about 12:30 p.m.)
Mr. Ben Garfinkle, Applicant (left meeting at about 12:20 pm.)
Mr. Max Graham, Mr. Garfinkle's Legal Counsel (left at about 12:20 pm.)
Mr. Ben Wellborn, Mr. Garfinkle's consultant (left meeting at about 12:20 pm.)
Mr. Tom Nance, Mr. Garfinkle's consultant (left meeting at about 12:30 pm.)
Mr. Tom Shigemoto, A&B Properties (left at about 1:05 p.m.)
Mr. Cesar Portugal (10:35 a.m. to 12:20 p.m.)
Ms. Eleanor COX (left at about 1:15 p.m.)
Ms. Lillian Silva, Ms. Cox's daughter (left at about 1:15 p.m.)
Ms. Clara Leasau, Ms. Cox's daughter (left at about 1:15 p.m.)
Ms. Heidi Rogers, Ms. Cox's spokesperson (left at about 1:15 p.m.)
Ms. Yolanda Portugal (left at about 1:15 p.m.)
Mr. Mike Tresler, Grove Farm (1:50 – 2:00 p.m.)

AGENDA

In order to maximize the effective use of the Board members present, Acting Manager Ushigome requested to re-order the Agenda since it was anticipated that there would be quorum problems to hold Executive Session matters and to consult with the Board's Special Counsel.

- a. to accommodate our consultant to have him first on the Agenda, as he would be available for a conference call from 9 to 9:45 a.m. Therefore, it was requested to have Executive Session Item No. 4 first.
- b. and then to go out of Executive Session to have our consultants do their presentation on Item I1c, the DOW's Water Plan 2020 Sustainability Service, under the Strategic and Business Plan.
- c. before quorum is lost to take up Old Business F3/Executive Session J2, Mr. Garfinkle's request as the Board needed to initially go into Executive Session on this matter.
- d. while in Executive Session, Items J3 and J5 would also be taken up, then the regular agenda items.

Mr. Costa moved to approve the Agenda, as re-ordered, seconded by Mr. Kyono; motion was carried.

EXECUTIVE SESSION:

ES-2007 (12-13-07, 2-14-08 & 7-15-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with Legal Counsel regarding questions and issues pertaining to the Board's and Department of Water's liabilities, powers and duties regarding personnel, labor and employment issues. This consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

Mr. Nishimura moved to go into Executive Session at 9:15 a.m. to discuss the above Executive Session agenda item as posted, seconded by Mr. Crowell. There was no Board or public testimony. Motion was carried.

Recess: 10:03 a.m. to 10:10 a.m. Meeting called back to order at 10:10 a.m.

Re: Updates on the Kaua'i Water Department's Strategic and Business Plan and Water Plan 2020 Program Sustainability Services

Ms. Ann Hajnosz and Mr. Tom Jacobs of RW Beck's Seattle Office were present at the meeting and gave a Powerpoint Presentation similar to the July 26, 2007 Board Workshop.

Water Plan 2020 Program Sustainability Services:

RW Beck was scheduled to attend this Board Meeting, with both Tom Jacobs and Ann Hajnosz in attendance to review with the Board, their recommendation as presented at the July 26, 2007 Board and Staff Workshop for the WP2020 Sustainability Program. Also, RW Beck will offer clarifications on what they termed, "disconnects" with the proposed Program Manager RFP findings.

Acting Manager Ushigome thanked RW Beck for graciously agreeing to come on their own dime and meet with the Board to review their proposed programmatic approach and address any questions and concerns relating to financing, compliance with privatization and procurement laws in the State.

She added that in preparation for today's Board Meeting, a recap was provided in last month's Board report updating the status of the WP2020 Program Sustainability plan. The summary tried to capture some of the Board's questions relating to the procurement of a "Program Manager" and the implementation of a multi-million programmatic approach for completing the CIP.

RW Beck's conceptual contractual approach included a 5-year target completion of 59 Phase 1 projects within an estimated budget of \$165M. RW Beck recommended that the Board outsource and contract a program manager consultant who would be responsible to provide the necessary resources to address the program impacts. These impacts included but were not limited to contract impacts, alternative project delivery methods, blanket environmental coverage, permitting issues, agreements with affected agencies and community outreach.

Mr. Cesar Portugal was present at the meeting at about 10:35 a.m.

RW Beck's Testimony:

Ms. Ann Hajnosz introduced herself as a consultant for RW Beck who has been working with the Kaua'i Department of Water since 1999. Also with her, were Mr. Tom Jacobs, who was working on the Strategic Plan Implementation and Mr. Mark Salmon, who is presently working on the Affordable Housing Projects.

Ms. Hajnosz stated that they are at this Board Meeting to answer any of the Board's questions relative to any work that they have done in the past. She added that for the new Board Members, they have worked with the Kaua'i DOW on water plans, financing, rate work, organizational studies, sustainability program, etc. They also have worked with other County departments like the Solid Waste and Wastewater Divisions, as well as our electrical company, KIUC. They are also working with several State agencies across the State; therefore, she felt that RW Beck has a good handle on local issues, local concerns, local challenges, etc.

Ms. Hajnosz discussed that RW Beck did work in the development of Water Plan 2020 back in 2001 and did a brief overview of the plan. She reviewed how Water Plan 2020 was a huge undertaking that would require a paradigm shift on how projects are handled. She added that there were many challenges with the implementation of the Strategic Plan as the Manager (Ernie Lau) left soon after the plan was done, with the Deputy Manager (Ed Tschupp) assuming the role as Manager. Then Mr. Tschupp left the Department in early 2006 with Acting Manager Ushigome overseeing the plan.

Ms. Hajnosz also discussed that in order to implement Water Plan 2020, a sustainability program was then worked on by RW Beck in 2006-07, which brings us from 2001 to present day. She then introduced Mr. Jacobs who will discuss the questions raised by the staff and Board.

Mr. Jacobs was tasked to give the Board an overview of the July 26, 2007 Board Workshop presentation and what has happened since then.

He stated that the July workshop gave an overview of the financial and implementation issues to get the capital improvement projects going for Water Plan 2020 and how it would be staffed, whether it would be the DOW staff or contract services.

Mr. Jacobs explained that there was discussion last year about whether it would be a conflict of interest if RW Beck wanted to be the program manager for the sustainability program. It was found to be a conflict of interest if RW Beck did the RFP to get the program manager on board; therefore, they stepped out of that role and the Board directed staff to complete the RFP. The staff worked on the RFP for a few months and presented their concerns; therefore, the Board requested RW Beck to appear at a Water Board Meeting. He added in March, 2008, some of the DOW and RW Beck staff did have a conference call to review and possibly address some of the issues. In April, 2008 another conference call was made with Mr. Jacobs, Ms. Hajnosz, who was on site, along with Chair Oyama and Acting Manager Ushigome. They talked about the relationships with regards to the program manager structure.

Mr. Jacobs added that at the February, 2008 Board Meeting, there were eight issues that were identified as part of the RFP process.

The Committee recommended that the aforementioned issues be resolved prior to the issuance of the Request for Proposal to avoid any confusion or possible legal entanglements which would further delay the timely completion of the Water Plan 2020 projects.

1. *Privatization continues to be an issue and requires resolution by those beyond the Committee members.*

Mr. Jacobs: Is it privatization to hire a program manager? He felt that it is an interpretation issue relative to the State laws but most utilities in the country that have hired program managers are not considered privatization. It would be similar to the DOW hiring contractors or consultants via contracts. Program managers add resources and expertise that an utility does not have in-house. The program manager is temporarily hired to do the job and once the job is done, the program manager is eliminated.

2. *Budget to hire the Program Manager and the Water Plan 2020 Sustainability Projects continues to be an issue.*

Mr. Jacobs stated that they had submitted an estimate in 2006 and 2007 on the estimated costs for the program manager and Water Plan 2020 Sustainability Plan on an annual basis: 2007-\$673,500; 2008-\$1,718,300; 2009-\$1,981,400; 2010-\$1,893,000; 2011: \$1,770,200; and 2012-\$806,900. Midstream in the next 5 years the cost was highest when the most construction was being done.

Mr. Jacobs explained that the cost included the hiring of as many personnel that is needed to run projects, etc. like our engineers are doing internally on a daily basis for the next five years. Once the projects are done, then the program manager is eliminated.

3. *There is a concern about the size and/or volume to be given to a single contractor. A peer review suggestion is that a pilot project on a smaller scale be considered.*

Mr. Jacobs stated that the program manager would have to live with the limitations of the State's procurement law.

4. *Questionable whether the Program Manager will be able or capable to complete the Water Plan 2020 projects in a timely manner as scheduled.*

Mr. Jacobs stated that the first thing the program manager would do is to check the scope of the program, what is the budget and what is the schedule of the program before actually starting the program. The program manager would work with the staff and the Board to create a realistic program. There would be interim milestones that would assist with assessing on an annual basis to verify if all is on schedule or not.

5. *What is the extent of the Program Manager's responsibility? The RFP is currently written so that the Program Manager hires the designer and contractor as subs to the Program Manager's contract, which allows the Program Manager to hire a design consultant and a contractor of his choice, including hiring just one firm or contractor for all of the Water Plan 2020 projects.*

Mr. Jacobs stated that this decision should be decided upfront and is up to the Department and Board on how they want this to be handled. There are 3 ways to handle contracts: 1) Design/bid/build; 2) Design/build; and 3) Construction Management (separate contracts for design consultant and general contractor; however, the general contractor is hired early on in the design process. The general contract would work with the design consultant to possibly find ways to things cheaper. This method has become more popular these days.

He added that the program manager's duties could include handling all of the procurement, monitor budgeting and schedules, manage documents, construction management, outreach, etc.

6. *The RFP is written to require the EM-7 engineer to have oversight over the Program Manager. There is a concern about the status of the EM-7 engineer and Manager. The EM-7 should be familiar with the Proposal and should be allowed time to make any necessary changes to the document so that he/she is able to manage the process.*

Mr. Jacobs stated that the plan for this EM-7 position was to oversee Water Plan 2020 and the program manager would report to this EM-7 position. He remembered that there was some question last year on whether this position could be put into place or not. It would have been nice to have this position in place to assist with the drafting of the RFP for the program manager; however, he felt that the Department could still move on without that position. Ultimately, a Department position would need to oversee Water Plan 2020 and the program manager as there may be times that a Department position would need to make decisions.

7. *Land Acquisition for any new projects or expansion of existing facilities continue to be an issue as is becoming more apparent with the Department's affordable housing projects.*

Mr. Jacobs stated that land acquisition is always an issue on any project. Land acquisition guidelines need to be defined from the onset by the program manager and the Department. It would be up to the Department to limit or allow the authority of the program manager to negotiate on behalf of the Department. Mr. Jacobs added that eminent domain is always an option, probably the last option, that would be up to the Board if they would want to pursue.

8. *There is concern about the quality control for the Water Plan 2020 projects. Will the Department of Water staff be involved with plan review or will the Program Manager be allowed to run with the projects without the Department's input?*

Mr. Jacobs discussed that this would need to be decided at the onset on how the oversight would be taken care of, whether it be one or the other of a combination of both parties to oversee Water Plan 2020 projects.

Mr. Jacobs summarized that the next step would be to finalize the RFP, advertise, and go through the selection process to select the program manager.

On query by Mr. Nishimura, Mr. Jacobs stated that all along that RW Beck was interested in pursuing to be the program manager for the DOW if the option came up. That is why they stepped away from doing the RFP, as it would have been a conflict of interest. Mr. Jacobs added that program management is the line of work that RW Beck does.

Mr. Nishimura stated that according to the records a report was done in 2006 and a Powerpoint Presentation was done in July, 2007.....

(Tape is defective as it was temporarily blank -#480 - #485: Missed one of Mr. Nishimura's question and Mr. Jacobs' answer.)

Acting Manager Ushigome stated that she remembered that the December, 2006 report was in draft form and never finalized. She thought that the reason it was not finalized was that the Board at that time felt that the plan was not aggressive enough, which is why the July, 2007 plan was so aggressive.

(Tape is defective again as it was temporarily blank -#491 - #500)

Acting Manager Ushigome stated that the repeal of Act 90 in July, 2007 raised some concern as that act addressed using civil servants for jobs that were historically done by civil servants. She added that privatization may have been acceptable on the Mainland but we need to adhere to local laws.

Ms. Hajnosz stated that the City and County of Honolulu, Wastewater Division, has a program manager to assist them.

Acting Manager Ushigome stated that hiring design consultants is an area that has not been challenged by the unions; however, the program manager would consist of civil servant type of positions like accountants, etc.

Acting Manager Ushigome also stated that it is ongoing whereby contractors, construction managers are hired on a smaller scale to assist in-house, as compared to what RW Beck proposed the program manager to do to work on 59 projects worth about \$165 million to be completed in 5 years. She added that this was RW Beck's plan and the previous Board approved it, which she questioned throughout the process whether that was doable or not.

Mr. Jacobs replied that it would be dependent on what is more important to know how to proceed, cost or scheduling. He stated that if a premium cost is paid for construction, amazing things could happen. Acting Manager Ushigome stated that the Department cannot even get to this point as privatization is the forefront issue that is blocking the RFP process. Mr. Jacobs also stated that most utilities do not have this roadblock.

On query by Mr. Jacobs, Acting Manager Ushigome stated that the law had a limit of \$250,000 a year. Mr. Kyono stated that it may be wise to consult with the union.

On query by Mr. Nishimura, Acting Manager Ushigome stated that while the RFP Committee was working on the RFP, this law came into light and became an issue to not go contrary to law.

Mr. Nishimura asked Mr. Jacobs if it would be possible to take the December, 2006 report and in consideration of the July 26, 2007 presentation and come up with a final report so that would complete Task 1 of the Sustainability Plan? Mr. Nishimura added that the result of the July 26, 2007 presentation was to do an RFP, which may or may not be doable. Mr. Nishimura added that it was no reflection on what was done by RW Beck to date; however, it seemed to him that the Sustainability Plan at this point may potentially run into a dead end. Therefore, doing a final report would tie up loose ends for Task 1 of the Sustainability Plan. It was felt that a final report would be good written documentation on what transpired throughout this process.

Mr. Nishimura asked if there was any communication from the Department or Board on why the Sustainability Plan was not acceptable? Ms. Hajnosz replied that they would go back to check their records.

Mr. Nishimura added that the information given at today's meeting should also be included in the final report.

Mr. Jacobs also added that knowing the Department's dollar limitation with Act 90, other options could be looked at, which would be included in their final report.

Acting Manager Ushigome discussed that the County borrows countywide 1/3 of the amount that was projected to be spent in the 5-year time period for Phase 1 of the Sustainability Plan.

Mr. Costa moved to receive RW Beck's report for the record, seconded by Mr. Kyono. Mr. Nishimura thanked RW Beck for taking the time to come to Kua'i and making their presentation, as their presentation was enlightening; motion was carried.

Ms. Hajnosz, Mr. Jacobs, Mr. Crowell and Mr. Kawate all left the meeting at about 11:00 a.m. (Note: There were only four (4) Board members present from this point on; therefore, no Executive Sessions could be held.)

MINUTES

Regular Meeting – July 15, 2008

Mr. Costa moved to approve to receive the Regular Meeting minutes of Thursday, July 15, 2008 and place on file, seconded by Mr. Kyono; motion was carried.

Special Meeting – July 29, 2008

Mr. Costa moved to approve to receive the Special Meeting minutes of the Tuesday, July 29, 2008 Meeting and place on file, seconded by Mr. Nishimura; motion was carried.

CORRESPONDENCE:

Re: Office of Information Practices – Request for Opinion on Whether a Task Panel Created by Resolution of the Honolulu City Council is a “Board” Subject to the Sunshine Law

Mr. Costa moved to receive the above correspondence and place on file, seconded by Mr. Nishimura; motion was carried.

AGENDA

Mr. Kyono moved to re-order the Agenda as follows, seconded by Mr. Costa; motion was carried.

OLD BUSINESS

Re: Request Board Approval to Clarify the Motion made at the December 13, 2007 Board Meeting for Agenda Item: “Revised Appeal to November 20, 2007 Agenda Item – Update Report on November 20, 2007 Agenda Item on the Request to Testify by Benjamin Garfinkle Regarding DOW Conditions of Tentative Subdivision Approval for Boundary Adjustment (Consolidation and Re-subdivision), TMK Nos. (4) 4-2-03:12, 65 and 66”

Mr. Benjy Garfinkle, Mr. Max Graham, Legal Counsel, Mr. Ben Welborn, Consultant, and Mr. Tom Nance, Consultant, were all present for this agenda item.

This matter was hoped to be preliminarily discussed in Executive Session; however, due to a lack of quorum to hold an Executive Session, no Executive Session was held. However, Mr. Graham requested to approach the Board for some discussion in open session.

Staff Report:

PROJECT: Subdivision S-2006-47, Consolidation of Lots 23-A-1, 23-A-2 and 23-B, Being a Portion of Land Patent Grant 11,238 to Eula Urban Kuhns and Resubdivision of Said Consolidation into Lots 1, 2 and 3

APPLICANT: Opaekaa Falls Land Company

LOCATION: Wailua Homesteads, 1st Series, Wailua, Puna, Kaua'i

FINDINGS

I. **ACTIONS REQUIRED:**

The Applicants' are requesting the Board of Water Supply grant a modification from the Department of Water (DOW) Water System Standards for the private water system on Lot 2.

In accordance with the Kaua'i County Code (KCC) Section 9-3.6, Completion of Improvements, Agreement and Bond, prior to final subdivision approval, the subdivider shall either construct the improvements or enter into an agreement guaranteeing the construction of improvements and provide a bond or security. It is the Department's position that this is also a requirement of the Applicants.

II. **PROJECT DESCRIPTION AND USE:**

The Applicant currently owns three (3) contiguous lots: Lot 23-A-1, Lot 23-A-2, and Lot 23-B. The Applicant is proposing to consolidate and resubdivide these three (3) "original" lots into three new lots described as Lot 1, Lot 2, and Lot 3.

Each of the original lots had two (2) water meters (total of 6 meters). After the subdivision, the applicant is proposing to retain the 6 water meters. One (1) of the two (2) meters from Lot 2 was re-designated for Lot 1 and other remaining meter from Lot 2 was reassigned to service Lots 3. Essentially, Lot 1 and Lot 3 have 3 water meters each. Lot 2 has no water service.

The Department recommended against allowing the Applicant to transfers of meters from one parcel to another, however, Board approved the re-assignment of the meters.

As part of the three (3) lot subdivision, the Applicants propose to provide water for potable and fire flow uses for Lots 1 and 3 from the DOW public water system. The applicant proposes to service Lot 2 from a private water system located on Lot 2.

III. **LEGAL REQUIREMENTS:**

Chapter 9 of the KCC regulates the subdivision process through the Planning Commission. KCC Section 9-2.4 states *"Water supply and distribution facilities shall conform to the rules and construction standards of the Department of Water."*

DOW Rules and Regulations, Part 3, Section XII allow for a modification from the Department's standards for subdivisions provides *"When conditions pertaining to any subdivision are such that the public may be properly served with water and with fire protection without full and strict compliance with these rules and regulations, or where the subdivision site or layout is such that the public interest will be adequately protected, such modifications thereof as is reasonably necessary or expedient, and not contrary to law or the intent and purposes of these rules and regulations, may be made by the Department."*

FINDINGS:

In their July 1, 2008 letter to the Board Chair from Max Graham on behalf of the Applicants of S-2006-47 (Opaekaa Falls Land Company 1, LLC, Opaekaa Falls Land Company 2, LLC, & Opaekaa Falls Land Company, LLC), requested that the Board grant a modification from the Department of Water (DOW) Water System Standards for the private water system on Lot 2.

As part of the three lot subdivision, the Applicant's proposed to have water for potable and fire use for Lots 1 and 3 provided by the DOW public water system; and proposed to have water for potable, fire and agricultural uses for Lot 2 to be supplied by a private water system (Private System).

The letter states that the Private System does not comply strictly with all of DOW Water System Standards (DOW Standards) which typically apply to DOW's public water systems. The applicant submitted the differences as set forth in the "Comparison of Opaekaa Water System with DOW Water System Standards" enclosure to the July 1, 2008 letter.

The Applicants are requesting the Board to find that the Private System will properly serve the water and fire protection needs of Lot 2 without full and strict compliance with the DOW standards.

EVALUATION:

Upon review of the submitted "Comparison of Opaekaa Water System with DOW Water System Standards" the following comments and questions are listed:

1. For Lot 2, the Applicants are limiting the density to not more than 6 dwelling units (no guest cottages and/or ADUs). **Will this restriction run with the land?**
2. In accordance with the Federal Safe Drinking Water Act, administered by the State Department of Health (DOH), a public water system is defined as a system which provides water for human consumption, through pipes and other constructed conveyances if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system may be privately or publicly owned or operated. A

public water system is a “community water system” or a “non-community water system. **At this time, the proposed private system does not appear to meet the public water system criteria, however, is the applicant willing to abide by this requirement since potentially more than twenty-five individuals could reside on the six (6) CPR units? Once the CPR units are sold, how does the Applicant plan to enforce occupancy limits?**

Or, will the applicants be responsible to monitor this compliance requirement annually, and if the private water system serves more than twenty-five people, will the Applicant be required to notify the DOH?

3. Sizing of the reservoir is based on the maximum day demand (MDD) of 37,688 gallons per day. The applicants’ propose constructing 2-20,000 gallon tanks to meet the potable, agricultural, and fire-flow requirements for a 6-unit CPR. **The Applicants states, in the event of a pump or motor failure, the pump and motor can be removed from the well and reinstallation of the back-up unit can be completed in 24-hours. How will the submersible pump be removed? The well is 8-inch in diameter and 430-feet deep. Is the timeframe to replace the pump realistic? Prior to placing the pump back on-line, to insure health and safety, will the Applicants be required to sample and test the water prior to bringing the well back on-line? If so, has the Applicant factored this time into tank sizing or storage requirement? If monitored under DOH, water quality testing would be a requirement?**
4. The lined steel tank does not conform to DOW Standards. **The proposed steel tank will likely have a shorter life-span as compared to a concrete or stainless steel tank. The Board should not accept conveyance of water facilities that are non-conforming or not in compliance with the Department’s Standards instead Board shall provide appropriate language to restrict conveyance of any substandard, unapproved materials to the Department.**
5. **Should the water system need to be conveyed to the County, it shall be the Applicants’ responsibility and any costs associated with removing and/or upgrading the system shall be borne entirely by the Applicants.**
6. On Page 3, in reference to Table 100-22-Total Pump Capacity Criteria, the Applicant denotes the letter “a” signifies the largest pumping unit shall be considered out of service for the total pump capacity criteria at each site. **Yet, the Applicant states, there is no specific requirement in the Water System Standards, therefore, they propose to use a single well (State No. 0221-5).**
7. On Page 5, the Applicant states, “Although there is no specific requirement in the Water System Standards, DOW appears to take the position that system pressure should result from elevation differentials from storage to service connection, as opposed to pressure that is maintained by a pump

system.” **For health and safety reasons, the Department minimizes its reliance on a “mechanical” means to provide and maintain service pressures. For instance, if there is a fire and the pump does not run or if there’s no electricity during the emergency..... in the midst of the chaos, by the time you realize the cause of the low pressure and start the pump, it may be too late.**

8. **Who ultimately bears the burden of operating and maintaining this private water system? Is it the Applicant or the future homeowners?**
9. **Who will ensure the water quality from the private water system?**

RECOMMENDATIONS:

The subdivision ordinance Section 9-2.4, “Water Supply and Distribution”, states that water supply and distribution facilities shall conform to the rules and the construction standards of the Department of Water. Subdivision improvements whether County-owned or private shall be subject to the Department of Water rules and regulations that include the “2002 Water System Standards” as amended.

Recess: 11:45 to 11:53 a.m.

Testimony:

Mr. Graham and Mr. Tom Nance approached the Board.

Mr. Graham stated that at the Board’s request at the last Board Meeting, he submitted a letter with an index showing the requested modifications. The letter requested that under DOW’s Rules, Part 3, Section XII, Modifications of Requirements that the conditions, which might be applicable to the subdivision be modified pursuant to this paragraph. This paragraph allows modifications where there are reasonable necessary or expedient. It seemed to set a ‘reasonableness’ standard. He also had submitted a comparison of the DOW’s standards and what is being proposed in the private water system. This was included in the Board’s packet.

Mr. Graham also mentioned that Mr. Roy Vitousek, Esq. of Cades Schutte Law Firm also submitted a letter to the Board on behalf of Mr. Garfinkle that submitted a legal opinion that the DOW’s Rules does not apply to private water systems. However, Mr. Graham stated that without waiving that legal position, for the purposes of this discussion, they are going to assume that the Rules do apply and proceeding under a request for modification.

Acting Manager Ushigome added that Mr. Vitousek’s letter was addressed to the Board and not the Department; therefore, it was not distributed to the Board yet.

Mr. Graham stated that if they can resolve this matter via their request for modifications, Mr. Vitousek’s letter and a need for Executive Session would be moot.

Mr. Graham stated that per the DOW’s rules, the minimum size for a water tank is 100,000 gallons and require reinforced concrete tanks. They are proposing 2 lined steel tanks with cathodic protection. One tank would be available for daily water use and the other tank would be for fire reserves. Their rationale is that steel tanks are

accepted industry standards and are used throughout Hawai'i and the size is sufficient for the proposed project, which is limited to 6 units.

Mr. Graham added that there is a well on-site. The DOW requirements on wells are that it needs to meet the maximum daily demand with an operating time of 24 hours. The applicant will have a well that will meet that daily demand that has a long-term sustainable capacity of 250 gpm and utilize a 100 gpm pump, which has a 24 hour pumping capacity of 144,000 gallons, which is more than enough to meet all of the potable and fire water needs.

Mr. Graham discussed that they are also proposing to have standby motor, pump, and power cable for the wells to mitigate any pump outages. There will be 24-hour capacity in the tanks and the pump can be replaced within 24 hours.

On query by Acting Manager Ushigome on whether that time frame is realistic, Mr. Nance replied that there will be a very small riser pipe, which setting would be about 300 feet. On query by Acting Manager Ushigome, Mr. Nance replied that repairs can be done within 24 hours if there is a crane available. She felt that it would take more like 3 days to contract someone, to get the equipment to the site and to do the repairs. Mr. Nance disagreed as there are on-site contractors like Oasis Drilling that would be able to tend to pump outages in a more timely manner than 3 days and this would be a private not government procurement.

Mr. Nance added that the other tank holds up to 20,000 gallons of water that has more than 24 hours worth of water that could last possibly for a week for the 6 homeowners. Acting Manager Ushigome added that once the pump is fixed, the water would need to be tested and normally would take a 24-hour period for test results. Mr. Nance stated that the homeowners' association would probably have a contract with a local company like Aqua Engineers to take care of that.

Mr. Graham further discussed that the DOW's requirements for system pressure is 40 psi and the DOW addresses system pressure by the placement of their tanks at selected elevations. However, this project is unable to place their tank at a sufficient elevation on the property; therefore, a pump system would be installed that would provide up to 50 psi for potable water and sufficient water at the hydrant. Even if there is a total electrical breakdown, from the gravity bypass from the fire tank to the hydrant, which would continue to provide water to fight a fire.

Mr. Graham stated that the type of pipes to be used typically the DOW standard is ductile iron, concrete cylinder, PVC and what they are proposing for the pipes are high density polyethylene (HDPE) pipes. These pipes are within the State acceptable industry standards; they are comparable with ductile iron and copper quality and useful life expectancy. They seem to be appropriate substitutes for the ductile iron pipes.

Mr. Graham added that they have also submitted a letter from Mr. Nance that describes the private water system in more detail.

Mr. Graham also added that to also protect the Department, the developer and the landowner would enter into an indemnification and release agreement with the

Department and the Board to indemnify and to release from all responsibility of providing private potable water. This agreement will be recorded at the Bureau and would run with the land and bind all future owners of the property. This would eliminate future requests from homeowners to demand County water when there is a deed with the property that waived their rights to County water. There would be no grounds for a lawsuit against the Department or Board.

Mr. Graham brought up another issue about the bonding that has arisen. They requested the ability to enter into a Development Agreement with the Board, which would state that there would be no building permits issued unless and until the private water system is completed. They proposed this Agreement in lieu of a bond.

Mr. Graham asked Mr. Nance to inform the Board on how this proposed private water system matches to other private water systems in the State. Mr. Nance stated that most of the other private systems are not larger than this system. This proposed system is perfectly satisfactory for just 6 lots; its capacity is far greater than what would be a minimum for 6 lots.

Mr. Nishimura asked on the redundancy of the pump, if there was an alarm that would sound when a pump has failed. Mr. Nance stated that there could be a low-level alarm in the tank or a flow switch in the discharge line of the pump. Mr. Nishimura discussed that his concern was if it was attached to the tank, then the time lag with the person getting the alarm, most of the backup storage would be gone. Mr. Nance stated that if the pump turns, but the water does not flow, then the flow switch would not record anything, which would set the alarm off.

Mr. Nishimura stated that although they have shown that it may be possible to perhaps grant what they have requested, he had 2 concerns that he would need to consult with our legal counsel as it relates to liability.

Mr. Nishimura asked if the applicant had addressed the Department concerns about density issues, for example, Lot 2 is limited to only 6 dwelling units, no ADUs and no guest cottages, will this be restriction be recorded and run with the land? Mr. Graham stated that although he did not get a chance to see the Board Report, he understood that ADUs were not allowed but an issue would be to waive the allowance of a guest cottage. Mr. Graham added that a guest cottage is not a dwelling unit but considered a guest bedroom; therefore, the plan for Lot 2 is to have 6 dwelling units and 1 guest cottage. Mr. Garfinkle added that the restriction of not having more than 6 dwelling units and 1 guest cottage is a zoning requirement.

Acting Manager Ushigome was concerned about who would be responsible to monitor their project to ensure that if there is an increase of more than 6 dwelling units or 25 people living on that property, that the Department of Health (DOH) would have to be notified as they become responsible to monitor at that point. Mr. Graham stated that it would probably be covered under the CPR report; however, it could also be written into the Agreement with the Board that if there are more than 25 people on the lot that they are obligated to inform the DOH, which would be on the deed and run with the land. Ms. Esaki added that someone in the homeowners' association should be responsible to report any additions/deletions to the DOH on the headcount for Lot 2 to ensure that DOH is aware that they are responsible to oversee the water

system once they reach a headcount of 25. Mr. Graham stated that this will also be included in the Agreement.

Recess: 11:45 a.m. to 11:53 a.m.

Mr. Graham suggested to the Board that they could still find today that the system as proposed will satisfy the reasonable requirements of health, safety, welfare and providing water to the public that will be serviced by this private water system. The Board could condition the applicants to produce a Waiver, Release and Indemnity Agreement that is approved by the Department and the County Attorney's Office to protect the County from the approval of this system. This Agreement will be recorded and run with the property and be applicable to all future owners, which will provide all the legal protection that is needed.

Mr. Graham also suggested that in the future, the Board could look into amending our Rules to possibly not get involved with private water systems.

Mr. Graham concurred with Mr. Nishimura to include in the Agreement that would make the applicants and future owners aware that if at any time they want to connect to the County water system, they would be responsible to make the necessary upgrades to ensure that their system meets the County standards.

Mr. Graham also concurred with Mr. Kyono to include in the Agreement that it should be in the homeowner's association by-laws that a qualified professional management water company would need to maintain their system.

Mr. Graham reassured the Board that the Agreement would be made between 2 parties; therefore, if any changes are made both parties would need to agree. The Agreement would include verbiage to include successors, heirs, etc.

On query by Mr. Nishimura, Mr. Graham stated that another recordable development agreement is needed to include that there shall absolutely be no building permits unless and until the system is constructed. Mr. Welborn elaborated that the current subdivision report on the DOW's conditions, it says that the whole subdivision shall not be finalized until the facilities are completed. There is a bonding and requirement and a completion of construction requirement for the whole project, which encumbers Lots 1 and 3 and they want to be able to get final subdivision approval and only make the bonding and construction requirement apply only to Lot 2. Therefore, it would be tied to the issuance of permits to Lot 2 and not to final subdivision approval for Lots 1 and 3, which are being serviced by County water.

Mr. Garfinkle explained that they are not doing a subdivision but a boundary adjustment. Lots 1 and 3 are permanently serviced by County water. There is a limitation of development; basically, a downzone. They are saying that they would want to pull a permit for a home on Lot 1 and the construction of the system on Lot 2 has not be done, which should not have an impact on what they do on Lots 1 and 3. Since there is no connection between the private water system for Lot 2 and the County system for Lots 1 and 3, they want the Department to recognize that they are independent of each other. Therefore, they are hoping that building permits would

not be held up for Lots 1 and 3, which already have water via the County water system, while the private water system is still being built for Lot 2.

Mr. Garfinkle stated that he was hoping to get everything cleared up today with an Agreement, as he did not want to take up more time for everyone than necessary. He asked who would do the final inspection and certification of his private water system once it is done. He would want this to also be included in the Agreement. There were no comments by the Board or staff; therefore, it seemed that Mr. Garfinkle will have their engineering consultant sign off and certify their private water system when it is done.

Mr. Garfinkle added that he did not want to do a bond in this case for Lot 2 as he does not know if and when there will be a home constructed on this property.

On query by Mr. Garfinkle, Acting Manager Ushigome stated that since it was the Board that requested for a legal opinion from the County Attorney's Office on how to deal with private water systems, that legal opinion is between the County Attorney's Office and the Board. On query by Mr. Garfinkle if they could get a copy of the legal opinion, Acting Manager Ushigome stated that it would be up to the Board.

Mr. Costa moved to approve that based on Mr. Graham's confirmations above that will be included in the Development Agreement, which will be conditioned upon review and approval by the Department of Water and the County Attorney's Office, seconded by Mr. Kyono.

On query by Mr. Welborn, the Board will also review the Agreement as the Agreement is between the Board and the applicant.

Chair Oyama called for the vote: Mr. Costa and Mr. Kyono voted aye and Mr. Nishimura voted nay.

Recess: 12:15 to 12:17 p.m.

On query by Mr. Nishimura, Ms. Esaki stated that the Board's Rules of Procedure stated that when there is a minimum quorum of 4 that there needs to be 4 affirmative votes to pass a motion. Therefore, the motion died.

Mr. Nishimura moved to defer this matter for further action on this matter to the next Board Meeting, seconded by Mr. Costa; motion was carried.

Mr. Graham, Mr. Welborn, Mr. Garfinkle and Mr. Portugal left the meeting at about 12:20 p.m.

Re: Status Report by Kukui'ula Development Company (Hawai'i) LLC

Mr. Lindsay Crawford of Kukuiula Development Company (Hawai'i) LLC was present at the meeting.

Acting Manager Ushigome reported on the following:

Kukui'ula has submitted a written monthly status update on their project that was distributed to the Board for their information.

Acting Manager Ushigome previously reported that Mr. Crawford from Kukui'ula Development Company (KDC) would be at the Thursday, August 14, 2008 Board Meeting to answer any questions. As part of their Approval of a DOW Waiver, Release & Indemnity Agreement Request for: 1) *Subdivision Y Cottages, S-2005-25, TMK: (4) 2-6-016: 016 thru 088; and, 2) Subdivision Y Custom Home Sites, S-2005-25; and, 3) Subdivision M1/M4 Custom Home Sites, S-2005-21, Kukui'ula Development, Kukui'ula, Kaua'i, Hawai'i*, the Board requested monthly status updates on Kukui'ula's project.

She also reported that it appeared that the Piwai 0.1 MG control tank elevation was about 3 feet lower than the Department's Akemama 0.25 MG Tank that provided storage to the Lawa'i-Omao area. The Piwai Tank spillway elevation was proposed to be at 677 MSL which should have matched the existing Akemama Tank elevation in Lawai.

The discrepancy in the tank elevations became evident when KDC connected the Piwai water improvement into the existing County water system. With the connection completed and by operating the Lawa'i-'Oma'o System with the normal set point controls, it was observed the Piwai Tank overflowed before Akemama Tank could be topped off. Based on their observations, operators suspected that both tank spillways were not at the same elevation. If both tanks are at different elevations, one tank will be full while the other tank will be under-utilized resulting in a loss of storage capacity in the system. This is especially problematic since Lawa'i-'Oma'o has a two (2) meter restriction per existing lot of record.

We are currently verifying the elevations to determine which benchmark and tank elevation is correct. Upon receiving confirmation, the Department will need to look at options on how best to address or resolve the situation with KDC.

To date, in accordance with the Department of Health's (DOH) conditional approval and contrary to Kukui'ula's contention, the Piwai wells are not in service. The Department is required to provide a 10-day notification to DOH prior to putting the wells into service. The notification letter was sent out on July 25, 2008 with the start-up date targeted for August 7, 2008.

Finally, the Kukui'ula Development Company's (KDC) Water Mater Plan (WMP) was approved by the Department in June 2004. Subsequently, the WMP is currently being amended to include the 75-unit Gap Housing Project, revisions to the current phasing plan, and other miscellaneous uses (such as wastewater pump stations, golf course comfort stations, and commercial parcels) relative to the Project.

KDC has not finalized the amended WMP. Relative to the Department's comments requiring an 8-inch waterline extension along Poi'pu Road, the Department has not proposed or agreed to fund the design or construction of the waterline at this time.

Mr. Crawford:

Mr. Crawford stated that most, if not all, of the water system improvements were built, pressure tested and chlorinated with the exception of Subdivision Y, which they basically failed a chlorination test. It was felt they were not filling the pipeline fast enough; therefore, they are working with their contractor to upgrade the pump rate to fill the line, which they hope to help them pass the test by the end of this month.

Mr. Crawford discussed that they recently found a problem with the spillway elevation with their Piwai pipeline and tank did not match the Akemama Tank. When they tried to startup the tank, the tank overflowed. Mr. Crawford stated that he and some of the DOW engineers will meet next week to work together to try and resolve this problem.

Mr. Crawford added that other than that progress is good. They submitted one half of their conveyance documents to the DOW and should be getting all done in the next few months.

On query by Mr. Nishimura, Acting Manager Ushigome stated that the Piwai Tank controls the well.

On query by Mr. Nishimura, Mr. Crawford stated that due to the miscalculation of the spillway elevations, before the Akemama Tank can be filled with water from the Piwai Tank, water overflows from the Piwai Tank. The Akemama Tank is 2.7 feet short of filling up.

Mr. Crawford stated that they will work towards a solution to make sure that all are satisfied.

On query by Mr. Nishimura, Mr. Crawford stated that Acting Manager Ushigome signed the Plantation Core Waiver, Release and Indemnity Agreements about two weeks ago and they will be picking up the building permits for that project that afternoon. Mr. Crawford added that they submitted the first 10 residential waivers to the DOW for their review and signatures.

Mr. Nishimura moved to receive this report, seconded by Mr. Costa; motion was carried.

Mr. Crawford and Mr. Nance left the meeting at about 12:30 p.m.

Re: Request Board Approval for Reconsideration and Clarification of the Motion Made at the July 15, 2008 Board Meeting on Agenda Item: Testify by A & B Properties, Inc. for a Request for Water Service, 'Ele'ele Industrial Park Subdivision, TMK: 2-1-02:051 and Eleele Residential Development Site, TMK: 2-1-02:Portion 003, 'Ele'ele, Koloa, Kaua'i, Hawai'i

Mr. Tom Shigemoto of A&B Properties, Inc. was present at the meeting.

Acting Manager Ushigome reported on the following:

RECOMMENDATION

The Department recommended the Board approve a motion for reconsideration on the approval of the 0.12 MGD source allocation for the A&B Industrial Park Subdivision, whereby, the Board can provide clarification to the Department's questions.

Acting Manager Ushigome explained that there is no specific process to follow for the Department to get clarification on the Board's previous motion; therefore, the reconsideration process was used as a vehicle to allow the Department to bring back this agenda item to get clarification on the Board's previous motion.

She added that per the reconsideration process, the Board would need to decide at this meeting whether they would want to approve the reconsideration of the motion. If the Board does approve the reconsideration process, then at the next Board Meeting, this matter would be on the Agenda again to reconsider and/or clarify the motion.

ACTIONS REQUIRED:

The Department is requesting clarification on the intention of the Board's July 15, 2008 motion to approve A&B's request for the 0.12 MGD source allocation for their Industrial Park project.

A&B asked the Board to waive their obligations as set forth in the Land Use Commission's Finding of Fact, Conclusion of Law, and Decision and Order which required the Petitioner (A&B Properties, Inc.) to provide source, storage and transmission as represented in their Petition for Amendment to the State Land Use District Boundaries – Reclassification of Certain Lands Situated at 'Ele'ele for Agricultural to Urban (TMK: 2-1-01 por. 3 and por. 27).

EVALUATION

With the approval of a source allocation of 0.12 MG, did the Board intend to establish a timeframe for A&B to develop?

Is the source allocation transferable to other A&B developments? Or, does the allocation run with the Industrial Park parcel, regardless if A&B owns it?

If the source capacity in the Hanapepe-'Ele'ele Water System becomes limited or insufficient (either from an increase in demand or decrease in source production), will the source allocation be withdrawn? Or, will the Board require for A&B to develop source capacity?

If the Industrial Park development exceeds the 0.12 MGD allocation, at any point in the future, did the Board intend to require A&B to provide required source? If so, specify the provisions to clarify the size, type, etc. And, how does the Board plan to document this requirement? In a recorded agreement?

On the flip side, if the 0.12 MGD is not fully utilized by A&B, how will the Board allocate the unused portion of the source capacity? Does it remain as an entitlement to A&B?

At what point, should a master plan be prepared?

LEGAL REQUIRMENTS:

State Land Use Commission's Decision and Order, Docket No. A90-654 states, Petitioner shall provide the necessary water source, storage and transmission facilities to service the proposed project.

HRS, Section 205-12 states the appropriate officer or agency charged with the administration of County zoning laws shall enforce within each County the use classification districts adopted by the Land Use Commission and the restriction on use and the condition relating to agricultural districts under Section 205-4.5 and shall report to the Commission all violations.

County Ordinance No. PM-293-94 - Zoning Designation states the Petitioner shall construct water improvements, which may include a storage tank, connecting pipeline facilities, and adequate transmission facilities. The Petitioner shall resolve these requirements with the Department of Water prior to Final Subdivision approval for the proposed subdivision.

The Department recommended that the Board require A&B to fulfill its obligations as represented in their Petition for District Boundary Amendment. See attached DOW letter to the Office of State Planning dated May 21, 1990 which states the DOW as no objections to the Amendment to the State Land Use District Boundary provided that water source, storage and transmission facilities are upgraded prior to actual developments. This letter also states the area involved in the petition is outside the service area; hence, the Department's recommendations remained consistent with the boundary amendment conditions.

CONCLUSION

The Board should develop a policy related to allocation of water supply and basis for water availability which will establish the criteria for departure from the Department's procedures and practices.

A&B Testimony:

Chair Oyama suspended the rules to allow Mr. Tom Shigemoto of A&B Properties to speak at the meeting.

Mr. Shigemoto stated that he understood and had no problem with the Department's request on clarifications; however, he was concerned about the reconsideration process that was used and if it would affect the Board's previous motion. Mr. Shigemoto added that with the Planning Department, their reconsideration process is to reconsider the previous motion. He discussed that based on the Board's previous motion, A&B's subdivision process is moving forward.

On query by Mr. Nishimura, Mr. Fujikawa stated that any type of source, storage allocation to a zoning request would be valid unless the zoning request application is terminated. On that note, Mr. Nishimura asked Mr. Shigemoto if because of the

extenuating circumstances to Mr. Shigemoto's request, would he accept more stringent conditions. Mr. Nishimura's example was to give a timetable to the validity of the allocation if the entire .12 MG allocation is not used within 25 years after final subdivision approval, then they would lose the allocation.

Mr. Shigemoto then asked why is this subdivision any different from any other subdivision? Mr. Nishimura stated that it could be argued 2 ways. He personally believed that there is excess water capacity, but subject to verification if it actually meets the needs of his project. He added that with that knowledge that there is potential water source capacity now; his feeling is why not use it? However, on the flip side, why should that source be held up, if A&B is not going to use it?

Mr. Shigemoto stated that they do want to be treated like any other developer. If there is enough water for their project, to have that water allocated to their project and if not available, so be it. He added that the allocation should stand as once their project gets final subdivision approval they need to have water reserved for the homeowners that will be buying their lots. However, he stated that he would not expect that water be reserved for them in perpetuity.

On request by Mr. Nishimura, Mr. Shigemoto attempted to answer the Department's following questions.

1. *With the approval of a source allocation of 0.12 MG, did the Board intend to establish a timeframe for A&B to develop?*

Mr. Shigemoto answered that the Board did not establish a time frame. What is reasonable or fair is at the time of final subdivision approval, whatever water is available be allocated to their project up to 0.12 MGD.

2. *Is the source allocation transferable to other A&B developments? Or, does the allocation run with the Industrial Park parcel, regardless if A&B owns it?*

Mr. Shigemoto replied that he did not think so as the source allocation was project specific.

3. *If the source capacity in the Hanapepe-'Ele'ele Water System becomes limited or insufficient (either from an increase in demand or decrease in source production), will the source allocation be withdrawn? Or, will the Board require for A&B to develop source capacity?*
4. *If the Industrial Park development exceeds the 0.12 MGD allocation, at any point in the future, did the Board intend to require A&B to provide required source? If so, specify the provisions to clarify the size, type, etc. And, how does the Board plan to document this requirement? In a recorded agreement?*

Mr. Shigemoto stated that if they get final approval and the source thereafter becomes insufficient and if the Board then requires A&B to provide source is unreasonable and unfair.

On query by Mr. Kyono, Mr. Shigemoto stated that if for some reason they sell the land for this project, he agreed that all should be inclusive and run with land.

5. *On the flip side, if the 0.12 MGD is not fully utilized by A&B, how will the Board allocate the unused portion of the source capacity? Does it remain as an entitlement to A&B?*

Mr. Shigemoto stated that he did not know the answer to this question; the DOW staff would need to explain their past practice with this situation.

6. *At what point, should a master plan be prepared?*

Mr. Shigemoto stated that the water master plan is normally required when the subdivision application is made.

On query by Mr. Nishimura, Mr. Shigemoto concurred that they are not asking for any special considerations.

On query by Acting Manager Ushigome, Mr. Fujikawa stated that once the minutes of the last meeting are done, they will review the minutes once it is approved and then try to interpret what the Board approved. Thereafter, staff will report on their findings and their recommendations for next steps.

On query by Mr. Doi, Mr. Shigemoto stated that it is also his understanding that the water master plan would be a requirement of the industrial subdivision.

Mr. Costa moved to defer this matter, seconded by Mr. Kyono; motion was carried. Mr. Costa moved to amend his motion to defer this matter to the next Board meeting to ensure concurrence from a broader representation of the Board and to allow more time to ensure that both Board and staff are satisfied with all clarifications, seconded by Mr. Kyono; motion was carried.

Mr. Shigemoto left the meeting at about 11:00 a.m.

Re: Job No. 04-02, WK-14, Pipeline Replacement for Vivian Heights and Kanaele Road for Phase II Implementation and Additional 2,500 Feet of 8-inch Waterline along Kanaele Road, Kapaā, Kauai, Second Contract Amendment with Fukunaga and Associates

RECOMMENDATION:

It was recommended that the Board approve the second contract amendment totaling \$94,100.00 for Contract No. 447 with Fukunaga and Associates, Inc, for the subject project.

It was further recommended that the Board appropriate \$94,100.00 from Account 106B, CIP Reserve to fund the balance required.

FUNDING:

Job No. 04-02, Waterline along Apopo Road, total available:	\$265,000.00
Contract No. 447, Fukunaga & Associates, Inc.	\$265,000.00
Contract amendment #2.....	<u>\$ 94,100.00</u>
Total required:	<u>\$359,100.00</u>
Additional Funds Requested, Account No. 106b, CIP Reserve.....	<u>\$ 94,100.00</u>

Contract 447 Total Amount..... \$359,100.00

BACKGROUND:

This phase II of the project includes the design for:

- 400 Linear Feet of 8-Inch Ductile Iron Pipe along Steven Road.
- 600 Linear Feet of 8-Inch Ductile Iron Pipe along Yamanoha Road.
- 2,800 Linear Feet of 8-Inch Ductile Iron Pipe along Apopo Road.
- 400 Linear Feet of 6-Inch Ductile Iron Pipe along Souza Road.
- 800 Linear Feet of 8-Inch Ductile Iron Pipe along Sadoyama Road.
- 4,500 Linear Feet of 6-Inch Ductile Iron Pipe along Kanaele Road.
- Abandon Cross-Country 2-Inch Existing Pipeline, 1954, between Kanaele Road and Laipo Road.

(Phase I of this project was the design for 2,200 Linear Feet of 8-Inch Ductile Iron Pipe along Apopo Road which is currently awaiting contract execution for the construction.)

Additionally, to provide a backup to the Kapaa Town pipeline system, an additional 2,500 feet of 8-inch waterline along Kanaele Road, connecting the Apopo Road pipeline to the Laipo Road pipeline system is being requested.

The project consultant, Fukunaga & Associates, proposed \$94,100.00 and agrees to complete the project work by February 1, 2009 for this change in the project scope, which appears reasonable.

Funding for the construction of this phase of the improvements, estimated at \$2,600,000.00, will be requested at a later date.

Mr. Kyono moved to approve the second contract amendment totaling \$94,100.00 for Contract No. 447 with Fukunaga and Associates, Inc, for the subject project, seconded by Mr. Nishimura; motion was carried.

Recess: 1:03 to 1:05 p.m.

Re: Automated Meter Reading (AMR) Implementation for the Department of Water, County of Kauai, Fourth Contract Amendment

RECOMMENDATION: It was recommended that the Board approve the fourth contract amendment with Professional Meter, Inc. (PMI), contractors for this project to provide 800 additional data only pre-install conversions to PMI’s proposal Table P7.

It was further recommended that the Board reallocate \$20,000.00 from Account No.106B, CIP Reserve to fund the balance required.

FUNDING:

Proposal from Professional Meter Inc., Best and final offer (BAFO), January 12, 2006:	\$3,764,160.00
First Contract Amendment:	\$ 184,710.00
Second Contract Amendment:	\$ 94,182.00
Third Contract Amendment:	\$ 156,536.66 ..
Sub-Total Contract Amount (Account No. 101, CIP, Automated Meter Reading Implementation for the Department of Water)	<u>\$ 435,428.66</u>
.....	\$4,199,588.66
Fourth Contract Amendment, Account No. 106B, CIP Reserve:.....	\$ 20,000.00
TOTAL CONTRACT AMOUNT:	<u>\$4,219,588.66</u>

BACKGROUND:

The Board approved the estimated pre-installed meter count of 300; however that amount has reached 291 as of July 24, 2008. A revised estimate of 800 additional meters (1,100 in total) is anticipated. PMI’s proposal for this work was \$25.00 per account, which was previously approved by the Board on November 20, 2007.

Mr. Costa moved to approve to reallocate \$20,000.00 from Account No.106B, CIP Reserve to fund the balance required, seconded by Mr. Kyono; motion was carried.

**Re: Request Additional Funding for the Purchase Two (2) Small Drilling
Machines and Attachments**

RECOMMENDATION:

It was recommended that the Board approve additional funding in the amount of \$6,306.56 for the purchase of the subject two (2) small drilling machines.

FUNDING:

Current Funds (Account #106, Vehicles & Equipment)	\$ 7,000.00
Lowest Responsible Bid Price	<u>\$13,306.56</u>
Additional Funds Requested (Account 106B, CIP Reserve):.....	<\$ 6,306.56>

BACKGROUND:

A “Request to Purchase” two (2) small drilling machines in the amount of \$7,000.00 was submitted and approved by the Board for the Fiscal Year 2007-2008. Operations Division solicited price quotes for the drilling machines from four (4) vendors in June of this year. The lowest responsible bid was \$13,306.56.

The discrepancy in between the budgeted amount and quoted price may be attributed to two factors: there has been a general increase in price for manufactured metal tools in the past couple of years and we added some additional items to the bid solicitation such as drill bits that were not included in the original purchase request.

Henceforth, we respectfully request additional funding in the amount of \$6,306.56 in order to proceed with the purchase of the subject two (2) drilling machines with attachments.

Mr. Kyono moved to approve additional funding in the amount of \$6,306.56 for the purchase of the subject two (2) small drilling machines, seconded by Mr. Costa; motion was carried.

Re: Request Board Approval of Contract Amendment for Job No. 98-2 (KP-07 & KP-08), 16-Inch Waterline Replacement along Poipu Road, Koloa, Kauai, Hawaii

RECOMMENDATION:

It was recommended that the Board approve the first contract amendment for Change Order No. 6 of Contract No. 464 to Kodani & Associates, Inc. for Job No. 98-2 (KP-07 & KP-08), 16-Inch Waterline Replacement along Poipu Road, to compensate the consultant, Kodani & Associates, Inc. for the additional archaeological monitoring services required for the subject project.

FUNDING:

Total Funds Available; "As Needed" General Engineering and Permitting Services, Job No. 98-2, (KP-07 & KP-08), 16-Inch Waterline Replacement along Poipu Road
Koloa, Kauai, Hawaii \$ 130,300.00

Contract 464, Kodani & Associates, Inc.
"As Needed" General Engineering Studies
Permitting Services \$ 69,500.00
Current Estimate, Amendment #1 \$ 18,000.00
Total \$ 87,500.00

Balance Remaining \$ 42,800.00

BACKGROUND:

On February 28, 2007, partial human skeletal remains of two individuals were inadvertently discovered by the construction contractor, Goodfellow Bros., Inc., while excavating for the waterline connection at Sta. 66+67± (vicinity of the junction of Poipu Road and Kuai Road). The find was promptly reported to the State Historic Preservation Division (SHPD), the Kauai Police Department and the Kauai County Coroner. After consultation with SHPD, the remains were temporarily curated at the Goodfellow Brothers field office in Koloa. The remains were subsequently reinterred by SHPD officials at an interment site on the grounds of the Wailua Golf Course. A report on this find was prepared and submitted to the SHPD and approved by that agency.

The original fee proposal for archeological monitoring services does not include inadvertent burial discoveries encountered during the monitoring of the project, including the discovery of human remains.

Mr. Kyono moved to approve the first contract amendment for Change Order No. 6 of Contract No. 464 to Kodani & Associates, Inc. for Job No. 98-2 (KP-07 & KP-08), 16-Inch Waterline Replacement along Poipu Road, to compensate the consultant, Kodani & Associates, Inc. for the additional archaeological monitoring services required for the subject project, seconded by Mr. Costa; motion was carried.

Re: Request Board Approval of Contract Amendments with Fukunaga and Associates for Job No. 02-18, WK-32, Waterline along Pipeline Replacements (Kaehulua Road), Kapaa Homesteads for Phase II Implementation, Kapaa, Kauai

RECOMMENDATION: It was recommended that the Board approve the second contract amendment totalling \$26,800.00 for Contract No. 404 with Fukunaga and Associates, Inc, for the subject project and to approve this appropriation to fund the balance required from Account 106B, CIP Reserve.

FUNDING:

Job No. 02-18, Waterline along Kaehulua Road	
Main Replacement, total available:	\$401,750.00
Contract No. 404, Fukunaga & Associates, Inc.	\$401,750.00
Contract amendment #2.....	<u>\$ 26,800.00</u>
Total required:	<u>\$428,550.00</u>
Additional Funds Requested, Account No. 106b, CIP Reserve.....	<\$ 26,800.00>
Contract 404 Total Amount.....	<u>\$428,550.00</u>

BACKGROUND:

This phase II of the project includes the design for:

- 750 Linear Feet of 6-Inch Ductile Iron Pipe along Sokei and Ua Roads.
- 6,500 Linear Feet of 6-Inch Ductile Iron Pipe along Kaehulua Road.
- 800 Linear Feet of 6-Inch Ductile Iron Pipe along Annie Road.
- 1,600 Linear Feet of 6-Inch Ductile Iron Pipe along Kaehulua Place.
- 1,650 Linear Feet of 6-Inch Ductile Iron Pipe along Kapahi Road.
- 1,000 Linear Feet of 6-Inch Ductile Iron Pipe along Puka Street.
- 460 Linear Feet of 6-Inch Ductile Iron Pipe along Ninaula Road.
- 1,620 Linear Feet of 6-Inch Ductile Iron Pipe along Moalepe Road.
- 950 Linear Feet of 6-Inch Ductile Iron Pipe along Lani Road.
- 1,200 Linear Feet of 6-Inch Ductile Iron Pipe along Waikaea Road.
- 1,500 Linear Feet of 6-Inch Ductile Iron Pipe along Waikaea Road.
- 600 Linear Feet of 6-Inch Ductile Iron Pipe along Honua Road.
- 850 Linear Feet of 6-Inch Ductile Iron Pipe along Ea Road.
- 1,200 Linear Feet of 6-Inch Ductile Iron Pipe along Mailehuna Road.
- 1,300 Linear Feet of 6-Inch Ductile Iron Pipe along Laipo Road.
- 900 Linear Feet of 6-Inch Ductile Iron Pipe along Hassard Road.
- 600 Linear Feet of 6-Inch Ductile Iron Pipe along Hulu Road.

(Phase I of this project was the design for 2,000 Linear Feet of 8-Inch Ductile Iron Pipe along Kaehulua Road which is currently awaiting contract execution for the construction.)

The project consultant, Fukunaga & Associates, proposed \$26,800.00 and agrees to complete the work by February 1, 2009 for this change in the project scope, which appears reasonable.

Funding for the construction of this phase of the improvements, estimated at \$2,000,000.00, will be requested at a later date.

Mr. Costa moved to approve the second contract amendment totalling \$26,800.00 for Contract No. 404 with Fukunaga and Associates, Inc, for the subject project and to approve this appropriation to fund the balance required from Account 106B, CIP Reserve, seconded by Mr. Kyono; motion was carried.

Re: Request Board Approval of Additional Funding for Contract 474 for Special Counsel to Provide Advice, Counsel, and/or Representation in Civil Matters in the Court System including, but not limited to Administrative Law, Personnel Law, Labor and Employment Law

Recommendation:

Recommend Board approval for additional funding of \$25,000 for special legal counsel to advise, counsel and/or represent the Department and Board, in matters including, but not limited to Administrative Law, Personnel Law and Labor and Employment Law.

Funding:

Account No. 271, Contractual Services	
Total Available Funding	\$100,000.00
Acct No. 271, Contract 474, Goodsill Anderson Quinn & Stifel (Original funding)	<\$25,000.00>
Additional Funds Approved at 2-14-08 Bd. Mtg. (Amendment No. 1)	<\$35,000.00>
Total Funding Required for Contract 474.....	<\$ 60,000.00>
Balance in Account No. 271, Contractual Services.....	\$ 40,000.00
Acct No. 271, Contract 474, Goodsill Anderson Quinn & Stifel	
Additional Funds Requested (Amendment No. 2).....	<\$25,000.00>
Balance Remaining	<u>\$15,000.00</u>

Background:

The contract scope of services remains the same; however, the consultant is requesting additional funding to cover additional out-of-pocket expenses and fees.

Mr. Kyono moved to approve \$25,000 for special counsel services, seconded by Mr. Nishimura; motion was carried.

Re: Discussion, deliberation and decision-making or action regarding steps, actions, procedures and processes necessary to select a new Manager and Chief Engineer for the Kauai Water Department

Mr. Costa moved to defer this matter to the next Board Meeting, seconded by Mr. Nishimura; motion was carried.

NEW BUSINESS

Re: Request to Testify by Eleanor M. Cox for Subdivision of Lot 37-D, Portion of the Consolidation of Portion of Grant 11224 (Abandoned Railroad Right of Way), Lot 37, Grant 6226, and Lot 38, Grant 6216, into Lot 37-D-1 and Lot 37-D-2, 'Oma'ō, Kaua'i, Hawai'i, TMK: (4) 2-7-05: 28, S-2005-26

Ms. Eleanor Cox, Ms. Heidi Rogers, Ms. Cox spokesperson, Ms. Lillian Silva & Ms. Clara Leasau, who are both Ms. Cox's daughters were present at the meeting.

Staff Report:

FINDINGS

LOCATION: 'Oma'ō. The proposed subdivision is located along 'Oma'ō Road, approximately 100 feet south of the intersection of Noho Road and 'Oma'ō Road and is further identified by Tax Map Key 2-7-05:28 affecting a total area of approximately 1.2 acres.

I. ACTIONS REQUIRED:

Applicant requests the Board to allow the subdivision to proceed and obtain final subdivision approval without completing the Department of Water's (DOW) conditions as shown in the Department of Water's Subdivision Report to the Planning Department dated August 26, 2005 (reference Exhibit I).

II. PROJECT DESCRIPTION AND USE:

The proposed subdivision will subdivide one lot into two new lots.

III. LEGAL REQUIREMENTS:

Chapter 9 of the Kaua'i County Charter (KCC) regulates the subdivision process through the Planning Commission, KCC Section 9-2.4 states: "Water supply and distribution facilities shall conform to the Rules and construction standards of the Department of Water."

Department of Water's Rules and Regulations, Part 3, "Establishing Standards for Subdivision Water Systems and more specifically Part 3, Section XIV, Non-Development Agreements.

IV. APPLICANT'S REASONS/JUSTIFICATION:

Refer to Applicant's April 30, 2008 letter to the Board. The applicant is requesting that the Board allow her to obtain final subdivision approval. Essentially the Board must consider the waiver or deletion of the DOW Condition 3.C. from the Department of Water Subdivision Report to the Planning Department dated August 26, 2005 which reads:

"3.C. Prepare and receive Department of Water's approval on construction drawings for necessary water system facilities and either

construct said facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
1) Additional storage facilities. The subdivider has the option of waiting for others to provide additional storage facilities for the area.”

The applicant also stated in her letter dated April 30, 2008 to the Board that she is willing to waive any future request for additional water service for any additional dwelling unit after final subdivision approval until such time as sufficient water service is available.

ADDITIONAL FINDINGS

“Water Meter/Dwelling Unit Restrictive Policy” for the Lawai-‘Oma‘o Water System. The Department’s Lawai-‘Oma‘o Water System is deficient in Storage Capacity. In late 1997 a policy to restrict developments to two single family dwellings and or two 5/8-inch water meters was established and approved by Administration.

EVALUATION

If the subdivision is granted final subdivision approval, whereby, two lots are created from one lot, then each new lot will be entitled to two single family dwellings (first single family dwelling and an ADU) to be constructed on them, for a total of four single family dwellings. The R-2 zoning would allow a maximum development of two dwellings per lot.

There are two existing water meters assigned to TMK: 2-7-5:28, Lot 37-D (reference Exhibit II). There is one existing single family dwelling currently located on proposed Lot 37-D-1. The Department of Water would recommend approval to construct two single family dwellings on the Lot 37-D at the present time, without requiring the additional storage facilities.

On May 21, 2008, the applicant’s daughter was informed that the Department Rules allow the subdivider to enter into a Non-Development Agreement with the Department. The purpose of Section XIV “Non Development Agreement”, Part 3, of the Department Rules is to assist families who wish to transfer interest in property between themselves without immediately complying with DOW rules and construction standards and specifications imposed when the family members request subdivision approval. However, the Non-Development Agreement will prevent the construction of any dwelling unit for either of the proposed lots once the Non-Development Agreement is executed and final subdivision approval is granted. To date, the Department has not received a reply from the applicant regarding the use of the Non-Development Agreement for this subdivision.

CONCLUSION

A total of four single family dwellings can be developed if this lot is subdivided into two lots. The resulting number of dwelling units will exceed the present DOW meter restrictive policy limit of two single family dwellings per lot of record restriction for the Lawai-‘Oma‘o area.

RECOMMENDATION

It was recommended that the Board support the Department of Water's recommendation as shown in the Department of Water's Subdivision Report to the Planning Department dated August 26, 2008 (reference Exhibit I).

Ms. Rogers' Testimony:

Ms. Heidi Rogers represented Ms. Cox, who wanted Ms. Rogers to speak on her behalf. Ms. Rogers stated that Ms. Cox's Omao subdivision is zoned R-2 and has had tentative subdivision approval. The subdivision is about 1.21 acres. Currently, there is one home on the property that is serviced by a 5/8-inch water meter and there is a second water meter nearby that is ready to install a lateral line. The facilities reserve charge has been paid.

Ms. Rogers stated that she understood that it the Department was concerned about the approval of the subdivision because of limited water supply in the area and if Ms. Cox's subdivision was approved then each new lot would be entitled to an additional dwelling unit and overwhelm the water source. Therefore, to alleviate that concern, Ms. Rogers proposed that Ms. Cox would sign a modified non-development agreement that was similar to Mr. Charles Carter's situation; whereby, the Board previously approved Mr. Carter to execute this modified Non-Development Agreement. Ms. Roger stated that she worked with Waterworks Legal Advisor Esaki to draft a modified Non-Development Agreement that was called a Restriction of Additional Dwelling Unit Agreement. This Agreement would allow the owner to build only one house per lot, until the water facilities are improved. She felt that this Agreement would alleviate any worry of over-development and would allow Ms. Cox's subdivision to pass on.

Ms. Rogers stated that the basis of her draft, modified agreement was the modified agreement used as a result of a previous Water Board Meeting. (the previous modified agreement was with Mr. Charles Carter).

Ms. Rogers stated that the modified agreement is similar to the Department's Non-Development Agreement, except the original Non-Development Agreement does not allow any further development. They, however, anticipate developing one house on the newly created subdivided lot.

Acting Manager Ushigome stated that the Non-Development Agreement was structured in our Rules to only benefit family members. She added that there is presently a 2-meter restriction in Lawai/Omao. Ms. Rogers added that this is a family subdivision.

On query by Mr. Kyono, Ms. Esaki stated that she did not get to review the final draft modified Non-Development Agreement for Ms. Cox.

Mr. Kyono moved to defer this matter to the next Board Meeting until Waterworks Legal Advisor Esaki could review the document.

Mr. Costa requested verification from Ms. Cox that this subdivision is for family only. Ms. Cox's daughter, Ms. Lillian Silva, spoke on behalf of her 91-year old mother that she wanted to subdivide her land to give one lot to her and one lot to her sister. Ms.

Silva stated that they were not going to build anything at this time; however, they would want to have the modified Non-Development Agreement, as they would not want to get stuck later on. Ms. Silva added that her mother wants to finalize her trust papers soon and that they understand that they cannot have additional dwelling units on either of the 2 lots until such time that there is an adequate water supply in Lawai/Omao.

Seconded by Mr. Costa; motion was carried.

Ms. Cox, Ms. Silva, Ms. Leasau and Ms. Rogers left the meeting at about 1:15 p.m.

NEW BUSINESS:

Re: Request Board Approval of Rules Committee's Recommendation Regarding correcting of the Amendment to the DOW's Rules and Regulations and 2002 Water System Standards, Part 4, Section VII, Subparagraph Nos. 4a and 3b for the Annotation to Table 100-19A of the Water System Standards, County of Kaua'i, State of Hawai'i

Acting Manager Ushigome reported on the following:

RECOMMENDATION:

As per the Rules Committee Report, the DOW requests concurrence from the full Board to proceed to publish for a public hearing on Thursday, October 8, 2008.

BACKGROUND:

Upon review of the recently adopted rule amendment, we noticed an error in the finalized version of amendment document. Inadvertently, the proposed language relating to Alternative methodology for satisfying fire protection requirements for non-residential structures did not appear on the certified copy of the amendment.

The affected section of the amendment to the 2002 Water System Standards that needed to be incorporated into the finalized version of the document is the Annotations to Table 100-19A, subparagraph(C).

- Instead of may [reject] the applicant's fire mitigation measures, the Fire Chief now may **approve** the sufficiency of the applicant's measures no later than one hundred twenty (120) day from the date that the Chief has determined, in writing, that the applicant has submitted a complete written analysis to him. ***(If "no action" was taken within the 120-day time frame, the applicant would receive an automatic approval.)***
- The basis for the Chief's approval of an applicant's proposed mitigation measures has been clarified; an applicant's measures may be **approved** [rejected] if they are [in]sufficient relative to the structures to be built on the lot, or the uses which will occur in conjunction with the proposed structures.
- In assessing the sufficiency of an applicant's measures, the Chief may also consider the impact of any potential on-site fire on surrounding off-site structures and uses.

There are no substantive changes to this subparagraph, essentially the wrong version of the amendment was transmitted to SBRRB through the rule making process. The inadvertent mix-up only affected the alternative methodology for fire protection revisions and the resulting action only addressed deleting the sunset provision from the Standards.

Upon receiving the Board's approval, we will be submitting to the following rule amendment documents to SBRRB for review:

- A. Amendments to the Rules and Regulations and Water System Standard 2002 of the Board of Water Supply, County of Kaua'i, State of Hawai'i, and;
- B. Small Business Impact Determination and Statement for Proposed Amendment of Rules and Water System Standard 2002 of the Board of Water Supply, County of Kaua'i.

A public hearing for the Amendment of Rules and Water System Standards is tentatively scheduled for Thursday, October 9, 2008 immediately before the our Board meeting. In order hold a public hearing on October 9th, the Department needs to provide a 30-day notice prior to the meeting date, therefore, the deadline to publish the "Notice of Public Hearing" is September 9, 2008.

The Board will be updated at the next meeting on the schedule of events for this rule-making process to meet all agency deadlines.

Mr. Nishimura moved to approve to go to public hearing on the rule amendment correction, seconded by Mr. Kyono; motion was carried.

Re: Resolution No. 1 (08/09), Budget for Fiscal Year 2008-09

It was recommended that the Board approve Resolution No. 1 (08/09), which formally approves the final budget for Fiscal Year 2008-09. The Board approved the final budget at the June 5, 2008 Board Meeting.

Mr. Kyono moved to approve Resolution No. 1, seconded by Mr. Costa; motion was carried.

Re: Request Board Approval of a Memorandum of Agreement between the State of Hawai'i, Department of Health, Safe Drinking Water Branch and the County of Kaua'i Department of Water, for the Department of Water to receive funds for the Planning and Design of the Kapilimao 0.5 MG Tank.

RECOMMENDATION: It was recommended that the Board approve the Memorandum of Agreement between the State of Hawai'i, Department of Health, Safe Drinking Water Branch and the County of Kauai Department of Water for the Department of Water to receive funds for the Planning and Design of the Kapilimao 0.5 MG Tank.

FUNDING: Not Applicable

BACKGROUND:

While reviewing the loan application submitted to the DWSRF for the construction of our Kapilimao 0.5 MG Tank, it was determined that the water system area that the tank would service, meets the State of Hawai'i, Department of Health, Safe Drinking Water Branch's definition of a Disadvantaged Community, therefore, qualifying for a grant based on Sections 340E-31 through 340E-41, Part III of Chapter 340 E, Hawai'i Revised Statutes (HRS), where the Director (Department of Health, Safe Drinking Water Branch) or his delegates are authorized in part to provide grants for facilitating compliance with applicable national primary drinking water regulations and otherwise further the goal of providing safe drinking water to the public.

Funds in the amount of \$25,000.00, will be awarded toward the completion of the planning and design for the project, including an environmental assessment, plans and specifications.

Mr. Costa moved to approve the Memorandum of Agreement between the State of Hawai'i, Department of Health, Safe Drinking Water Branch and the County of Kauai Department of Water for the Department of Water to receive funds for the Planning and Design of the Kapilimao 0.5 MG Tank, seconded by Mr. Kyono; motion was carried.

Re: Conveyance of Water Facility from Mark Y. Watase; for the Water Meter for Lot B-1-B, TMK: (4) 1-3-08:019 (S-2007-9), Kekaha, Waimea District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Mark Y. Watase, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 1-inch copper single service lateral for 5/8" water meter, for the Water Meter for Lot B-1-B, TMK: (4) 1-3-08:019 (S-2007-9), Kekaha, Waimea District, Kauai, Hawai'i.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Mark Watase, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Ian B. and Anna M. Cronshaw, John E. and Jane R. Hollister, TMK: (4) 1-3-01:085, Kekaha, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby Ian B. and Anna M. Cronshaw, John E. and Jane R. Hollister transfers unto the Board of Water Supply, County of Kauai, all of its right, title and interest to a single service connection for 5/8" water meter, in place complete, in accordance with the as-built construction drawings for WATER SERVICE INSTALLATION PLAN FOR LOT 280, UNIT 2, prepared by Wagner Engineering Services, TMK: (4) 1-3-01:085, Kekaha, Kauai, Hawaii.

A Grant of Easement is not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Ian B. and Anna M. Cronshaw, John E. and Jane R. Hollister, seconded by Mr. Costa; motion was carried.

Re: Grant of Easement from Poipu Beach Villas, LLC, for the water facilities for the Koloa Landing at Poipu Beach, Z-IV-2004-35, SMA (U)-2004-6, PDU-2004-30, S-2004-36, TMK: (4) 2-8-15:025, Poipu, Koloa District, Kauai, Hawaii

It was recommended that the Board approve the grant of easement; whereby, Poipu Beach Villas, LLC grant to the Board of Water Supply, County of Kauai, a perpetual easement on, over and under that certain parcel of land located in TMK: (4) 2-8-15:025, Poipu, Koloa District, Kauai, Hawaii, for the construction, installation, reinstallation, maintenance, repair and removal of potable water pipelines, related meters, valves, and other associated waterworks facility improvements and appurtenances, together with the right of ingress and egress at any time to, from, and through the easement area, with or without vehicles or equipment, as the Department of Water shall deem necessary for the proper operation of its water system for the Koloa Landing at Poipu Beach, Z-IV-2004-35, SMA (U)-2004-6, PDU-2004-30, S-2004-36, TMK: (4) 2-8-15:025, Poipu, Koloa District, Kauai, Hawaii.

Further, Board approval was specifically requested of the indemnification provision in this agreement, wherein the Board agrees to indemnify and hold harmless the Grantee from property damage and injuries to person (including death), when such damages and injuries are caused by the Department's negligence while using the area.

Mr. Kyono moved to approve the Grant of Easement from Poipu Beach Villas, LLC, with the indemnification provision, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Poipu Beach Villas, LLC, for the water facilities for the Koloa Landing at Poipu Beach, Z-IV-2004-35, SMA (U)-2004-6, PDU-2004-30, S-2004-36, TMK: (4) 2-8-15:025, Poipu, Koloa District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Poipu Beach Villas, LLC transfers unto the Board of Water Supply, County of Kauai, all of its right, title and interest to the following item:

Waterline: 1,100 linear feet of 12" Ductile Iron Waterline, in place complete

Fire Hydrants:

5 ea. Fire Hydrant Assembly with 1 – 4 ½" & 1 – 2 ½" Outlet, including 6" Ductile Iron Lateral, 6" gate valve, valve boxes, and appurtenances, in place complete.

10 linear feet of 8" Ductile Iron Waterline, in place complete (Poipu Kapili Condominium Private Fire Hydrant)

Detector Check and Compound Meter:

Koloa Landing at Poipu Beach:

130 linear feet of 8" Ductile Iron Detector Check Meter Lateral
130 linear feet of 8" Ductile Iron Domestic Compound Meter Lateral
145 linear feet of 2" Copper Bypass Lateral for Domestic Compound Service
2 ea. 16" x 8" Ductile Iron Tapping Tees
2 ea. 8" Gate Valve with all appurtenant boxes, connections, and covers
1 ea. 6" Gate Valve with all appurtenant boxes, connections, and covers
2 ea. 2" Ball Corporations with all appurtenant boxes, connections, and covers
1 ea. 6" Detector Check Meter Assembly with associated box, piping, and appurtenances within easement in favor of Kauai Department of Water
1 ea. 6" Domestic Meter Assembly with associated box, piping, and appurtenances within easement in favor of Kauai Department of Water

Starwood at Poipu Stub outs:

35 linear feet of 12" Ductile Iron Detector Check Meter
25 linear feet of 8" Ductile Iron Domestic Compound Meter Lateral
25 linear feet of 2" Copper Bypass Lateral for Domestic Compound Service
1 ea. 12" Gate Valve with all appurtenant boxes, connections, and covers
1 ea. 8" Gate Valve with all appurtenant boxes, connections, and covers
1 ea. 2" Ball Corporations with all appurtenant boxes, connections, and covers
3 ea. 2 ½" Cleanout Assemblies, in place complete.

in place complete, in accordance with the as-built construction drawings for CONSTRUCTION PLANS FOR KOLOA LANDING AT POIPU BEACH prepared by Gray, Hong, Nojima and Associates, Inc., Poipu, Kauai, Hawaii.

Mr. Kyono moved to approve the Conveyance of Water Facility from Poipu Beach Villas, LLC, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Eileen K. Konishi, Successor Trustee of the Tetsuo Konishi Revocable Living Trust dated August 31, 1994; for Subdivision Application No. S-2004-44, TMK: (4) 2-5-004-033, Lawai, Koloa District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Eileen K. Konishi, Successor Trustee of the Tetsuo Konishi Revocable Living trust dated August 31, 1994, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 2-inch copper triple service lateral for 5/8" water meter and one (1) each, 1 ½-inch copper double service lateral for 5/8" water meter, for the Water Meter for Subdivision Application No. S-2004-44, TMK: (4) 2-5-004-033, Lawai, Koloa District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Eileen K. Konishi, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Roy K. Ho, Donna Kuulei Ho and Guy K. Ho; for Water Service Installation for Lot 196C-1, TMK: (4) 4-6-14:061, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Roy K. Ho, Donna Kuulei Ho and Guy K. Ho, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 1-inch copper single service lateral for 5/8" water meter, in place complete, for the Water Service Installation for Lot 196C-1, TMK: (4) 4-6-14:061, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Roy K. Ho, Donna Kuulei Ho and Guy K. Ho, seconded by Mr. Costa; motion was carried.

Re: Right of Entry for Job No. 05-02 (H-8), Drill and Test Hanalei Well #2, from Glenn I. Kobayashi, Joseph N. Kobayashi and Christine Y. Kobayashi, for the Soils Testing and Land Surveying, TMK: (4) 5-6-002:002, Hanalei, Kauai, Hawaii

It was recommended that the Board approve the Right of Entry document from Glenn I. Kobayashi, Joseph N. Kobayashi and Christine Y. Kobayashi, for soils testing and land surveying for the proposed Hanalei Well #2 and tank site on TMK: (4) 5-6-002:002, Hanalei, Kauai, Hawaii.

Further, Board approval was specifically requested for the indemnification provision, wherein the Board agrees to indemnify and hold harmless the Grantor from property damage and injuries to person (including death), when such damages and injuries are caused by the Department's negligence while using the area.

Mr. Kyono moved to approve the Right of Entry from Glenn I. Kobayashi, Joseph N. Kobayashi and Christine Y. Kobayashi, seconded by Mr. Nishimura; motion was carried.

Re: Request Board Approval of a Right of Entry Agreement for Job No. 02-24 (WK-02), Renovations to Akulikuli Tunnel, from Kenji Yamashiro, Trustee of the Kenji Yamashiro Revocable Living Trust dated June 25, 1993; Take Yamashiro and Mervilyn K. Yamashiro, Trustees of the Take Yamashiro and Mervilyn K. Yamashiro Self-Trusted Trust dated September 12, 2000; and Sue Ann Takata, Trustee of the Sue Ann Takata Self-Trusted Revocable Trust under unrecorded trust agreement dated April 29, 1996, as amended; TMK: (4) 4-6-04:020, Kapaa, Kauai, Hawaii

It was recommended that the Board approve the Right of Entry document from Kenji Yamashiro, Trustee of the Kenji Yamashiro Revocable Living Trust dated June 25, 1993; Take Yamashiro and Mervilyn K. Yamashiro, Trustees of the Take Yamashiro and Mervilyn K. Yamashiro Self-Trusted Trust dated September 12, 2000; and Sue Ann Takata, Trustee of the Sue Ann Takata Self-Trusted Revocable Trust under

unrecorded trust agreement dated April 29, 1996, as amended; for access over and across TMK: (4) 4-6-04:020, Kapaa, Kauai, Hawaii, which is owned by the Grantors. Access through TMK: (4) 4-6-04:020 was required for land surveying, environmental surveys and for other project planning purposes for Job No. 02-24 (WK-02), Renovations to Akulikuli Tunnel.

Further, Board approval was specifically requested for the indemnification provisions wherein the Department will indemnify and hold harmless the Owners, to the extent permitted by law, from and against any loss, cost or expense, including reasonable attorneys' fees, claims, damage, liability, losses and/or injuries or death arising out of or in any way connected with any activity of the Department, its agents, employees, representatives and/or contractors in the use of the Owners' property under this Right of Entry.

Mr. Kyono moved to approve the Right of Entry Agreement for Job No. 02-24 (WK-02), Renovations to Akulikuli Tunnel, from Kenji Yamashiro, Trustee of the Kenji Yamashiro Revocable Living Trust dated June 25, 1993; Take Yamashiro and Mervilyn K. Yamashiro, Trustees of the Take Yamashiro and Mervilyn K. Yamashiro Self-Trusteed Trust dated September 12, 2000; and Sue Ann Takata, Trustee of the Sue Ann Takata Self-Trusteed Revocable Trust, seconded by Mr. Nishimura; motion was carried.

Recess: 1:25 p.m. to 1:27 p.m. (Finance Committee Meeting)

REPORTS

Re: Statement of Kaua'i County Water Department's Revenues and Expenditures

Mr. Nishimura moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures report and placed on file, seconded by Mr. Costa; motion was carried.

Re: Public Relations Specialist's Monthly Update Regarding DOW Public Relation Activities

Public Relations Specialist Faith Shiramizu gave the following report::

Re: Public Relations Update

Employee Events: The County of Kaua'i, Employee Council held their 4th Annual Employee Picnic at Lydgate Park on Saturday, August 2nd. The picnic included a water slide, bon dancing, pronto pups, chili, hamburgers, desserts and fellowship.

Alakai Trail Hike was a huge success, as reported in the Issues Champion Report and seen in the July Newsletter.

Our four summer interns decided to organize an after work pot luck and a weekend activity. They were responsible for the planning and execution of these events (with assistance and direction from DOW employees). The potluck scheduled for

Thursday, August 7th and bowling scheduled for Saturday, August 9th, were both received with positive responses, support and participation.

DWSRF Projects: A Memorandum of Agreement for a \$25,000.00 grant for the Planning and Design of Kapilimao .05 MG Tank and an Interim Loan Agreement for \$4,733,954 for the construction of the Kapilimao .05 MG Tank.

Year Book: Heather Kubota, our summer intern has created and published the first DOW Year Book which was given to the Board. She put a lot of thought and energy into this project, with minimal supervision and assistance. Heather should be commended for this project that the department will benefit from. It was also noted that Heather also did a great job of doing most of the 3 newsletters for June, July, and August, 2008.

Make a Splash Water Festival: Invitations for our 2008 MAS Water Festival to be held on Friday, September 26, 2008, have been sent to the schools for all 5th Graders. (We already have several registrations). Volunteer forms are being circulated within the department. Supplies are being ordered. We will be recruiting community volunteers within the next couple of weeks.

Consumer Confidence Report: A new mandate by the Federal Government requiring all Consumer Confidence Reports to include "lead-specific health information" was inadvertently missed in the Water Quality Report that was mailed to our customers in June. To satisfy this mandate, a flyer will be inserted with the next cycle of bills. This process as well as the wording of the flyer has been cleared with the State Department of Health Safe Drinking Water Branch.

Ms. Shiramizu added that she had a phone interview that was on Channel 8 TV to give the public an update on Kauai's drought situation, as they were getting updates from each of the islands.

Mr. Nishimura moved to receive the Public Relations Update and placed on file, seconded by Mr. Costa; motion was carried.

RE: SUMMARY REPORT OF MONTHLY OPERATIONAL MAINTENANCE:

For the Board's information, Acting Chief of Operations William Eddy submitted a monthly report of the DOW's Operations Division for the Board's information.

On query by Mr. Nishimura, Mr. Eddy stated that the Wailua Homesteads Pump No. 2 would be down for several months as a Request for Proposal was done and it was found that the motor that is needed is a specialty motor that needs to still be manufactured. The motor needed is a 1,800 HP specialty submersible motor and the standard motor is a 3,600 HP motor.

Also on query by Mr. Nishimura, Mr. Eddy stated that to rewind the motor would probably not be done any faster.

On query by Mr. Costa, Mr. Eddy stated that the present motor could be replaced with a 3,600 HP motor; however, it was felt that the 1,800 HP motor would have less

wear and tear and would last longer than the 3,600 HP motor. Also, that the prices are about the same for the 2 type of motors but the 1,800 HP motor would take longer since it would have to be manufactured from scratch.

Mr. Costa moved to receive the Operational Maintenance Report, seconded by Mr. Nishimura; motion was carried.

Re: Manager's Update for July, 2008 to August, 2008

CONTRACTS AWARDED BY THE MANAGER: None.

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

WAIVER, RELEASE, AND INDEMNITY AGREEMENTS SIGNED BY THE MANAGER: Kukui'ula Plantation Core

Affordable Housing Update: Affordable Housing Task Force (AHTF) meeting was held on Monday, July 14, 2008 at Pi'ikoi Conference Room A.

Updates on AHTF Projects:

1. DHHL – Anahola Residence Lots Unit 6, "Pi'ilani o Kekai, Phase 1: DHHL will follow up with the Acting Manager regarding the License Agreement that was submitted to DOW for conveyance of the water improvements and will follow up with the DOW project engineer regarding the issuance of the Certification of Completion.
2. Habitat - Eleele I Luna Subdivision Phase 2 Includes 107 lots and one park. Construction plans should be submitted to County agencies in late July 2008. To date, DOW has not received the construction plans. Habitat may be considering phasing the construction of the subdivision depending on their financing plan.
3. Puhi Self Help Subdivision- The Acting Manager allowed the first fourteen (14) of forty-one (41) building permits for the subdivision, despite the fact Grove Farm has not completed the conveyance and grant of easement documents for the Puhi Booster Pump and waterline improvements. The next fourteen building permits were scheduled to be submitted to the Building Division in August 2008. The issuance of the water meters is contingent upon completion of the conveyance of the Puhi Booster Pump Station and 16-inch waterline.

On July 30, 2008, Acting Manager Ushigome received notice from staff that Self-Help illegally connected a rubber garden hose to one of the service connections within the subdivision. Also, confirmed that none of the initial 14 meters were applied for by Self Help. The unauthorized connection (without a meter installation) allowed the homeowners to essentially "steal water" which is in violation of the Department's rules. We cannot be sure, how long this was going on or how much water was used.

The meters were not installed because Self Help needed to apply and pay for the meter installation fee. The meter installation fee is \$130 per 5/8-inch meter. Apparently, Self Help came in to apply for the meters. The amount of the check was insufficient to cover all of the fourteen (14) meters and subsequently, they never came back to have the meters installed.

Acting Manager Ushigome notified the County Housing Agency of the illegal connection. They in turn contacted Self Help Housing and had the project supervisor remove the makeshift connection on Friday, August 1, 2008. On Wednesday, August 6th, she received an email from the Self Help Housing apologizing for the water meters and stating that they paid for the water meter installation fee.

4. Kauai Lagoons – Courtyard at Waipouli: County issued building permits. No report.
5. Kauai Lagoons – Kapule Project: DOW requested that Kaua'i Lagoons revise and resubmit the engineering report to the DOW as soon as possible to insure building permit approval by DOW in July 2008. To date, DOW has not received the revised engineering report.

The Kaua'i Lagoons Kapule LLC is responsible for this project and submitted a update report that informed the Housing Agency that they attained approval of the SMA Amendment covering seven (7) units. Building permit plans and applications will be submitted on or about July 10, 2008. Construction start date for 31 units is January 31, 2009 with the anticipated completion of 31 units by February 18, 2010.

Kaua'i Lagoons acknowledged that additional source and storage system improvements will be needed in order to receive DOW approval for a future 8-inch meter that will supply the remainder of the development's demands.

6. Kalepa Village Phase IV – Phase IV constructor's contract is near completion. The building permit is currently being processed. This project will be taken off the AHTF tracking list.
7. Kukui'ula Employee Housing- "Gap" Housing subdivision and zoning permit: Amended water master plan was returned to the developer for revisions. The developer has not resubmitted the revised WMP to DOW to date. *Kukuiula Development Company's progress update report to the AHTF dated May 1, 2008 stated that "DOW has rejected the amended Kukuiula Water Master Plan that provides water to the Workforce Housing Project. Specifically, the DOW is requesting additional upgrades to the Poipu/Koloa regional system that are above and beyond those indicated by the Master Plan and hydraulic analysis."* The DOW informed the AHTF that DOW has not rejected the draft WMP. After DOW conducted its review in February 2008, DOW comments and recommendations were submitted to the consultants. The DOW has not received a submittal of a revised WMP version to date.
8. Kokea Loa (Hanamaulu Triangle) - DOW is currently reviewing the May 15, 2008 draft WMP for the Grove Farm former "Amfac/JMB Lihue Hanamaulu Master Planned Community Lands. .

9. Paanau Village, Phase 2: The affordable housing projects included in the Kukuiula Master Plan. The Housing agency is exploring alternative project access through the adjacent State Housing site.

Next meeting of the AHTF is scheduled for Monday, August 11, 2008 at the Pi'ikoi Conference Room A at 10:00AM-11AM.

Drought Mitigation Memorandum of Agreement –Contract 57251:

The Department received the fully executed MOA for the implementation of drought mitigation projects on Kaua'i from the State Commission on Water Resource Management (CWRM). The 2007 State legislature appropriated \$4M for drought mitigation projects and measures. The Hawai'i Drought Council elected to evenly divide funding among the four (4) counties. The Department will receive \$700K from (CWRM) for these drought mitigation projects:

- Kekaha AMFAC Shaft 11, Facility Testing, Evaluation and Reporting (Phase 1B)
- County-wide Conservation and Education Program

Cost Control Commission:

On July 14, 2008, Paul Ganaden and I attended the Cost Control Commission's meeting to provide a summary of the billing process, accounts receivable process, number of delinquent water accounts and uncollected fees.

As a follow up, the Commission requested a breakdown of the cost associated with shutting off water and re-opening water service for non-payment of sewer charges. A copy of the Department's response to the Cost Control Commission's inquiry is attached for your review. The next meeting of the Cost Control Commission is scheduled for September 8, 2008.

Janitor and Civil Engineer:

We would like to welcome our two (2) new hires, They will be coming on-board during the month of August. Effective August 11, 2008, the Department will have a full-time janitor. Our new janitress is Teresita Guerrero.

Also, the Department wishes to announce hiring a Civil Engineer I, effective August 25, 2008. Jennifer Lewis will be working in the Design and Construction Division.

The Board requested that 'welcome to the DOW' letters be sent to the new hires from the Board. It was so noted.

Mr. Costa moved to approve the Manager's Update, seconded by Mr. Kyono; motion was carried.

Re: Report of the Finance Committee of the Kaua'i County Board of Water Supply

This matter was taken care of at the Finance Committee Meeting.

Re: Report of the Rules Committee of the Kaua'i County Board of Water Supply

This matter was already taken care of.

Re: Report of the Manager Recruitment Sub-Committee of the Whole of the Kaua'i County Board of Water Supply

Mr. Costa moved to defer this matter, seconded by Mr. Nishimura; motion was carried.

Re: Status Report from Grove Farm on the Completion of the Puhi 393' Booster Pump Station

Mr. Mike Tresler of Grove Farm was present at 1:50 p.m.

On request by the Board, Mike Tresler of Grove Farm was present to give an update on the progress of the Puhi 393' Booster Pump Station.

On query by Mr. Tresler, Mr. K. Fujimoto stated that all of the documents/plans have been submitted to the DOW except for one more batch of as-built tracings.

Mr. Tresler stated that they have been scrambling to ensure that conveyance documents, etc. are submitted to the DOW.

Mr. Tresler stated that this booster pump station has been in service and they even did install an emergency booster pump in the interim. They have been trying hard to meet this unrealistic deadline that they had agreed upon in light of finalizing the Hookena Subdivision, which is an affordable housing project.

He added that a lesson learned on their part is to not to agree to unrealistic deadlines that would be very challenging to meet and to have stronger contracts with their consultants, etc. Also, another lesson learned is to work closer with the DOW to have clearer expectations so it can be incorporated with their consultant's contracts with performance measures and to also have penalties.

Mr. Tresler added that Mr. K. Fujimoto was timely in his review and responses to Grove Farm.

Mr. Tresler felt that booster pumps does take time; however, felt that this project was done faster than most other booster pump projects. Mr. Tresler stated that they would be fine-tuning their processes to ensure timeliness in future projects with the DOW.

On query by Acting Manager Ushigome, Mr. K. Fujimoto stated that review was being conducted on the easement and conveyance documents for the cross-country Kilohana Transmission Line and will be on the next Board Meeting for approval.

Mr. Tresler respectfully requested that the DOW support Self-Help Housing's building permits. He also thanked Mr. Eddy and his crew for removing the emergency booster pump.

Mr. Costa moved to receive Mr. Tresler's report and placed on file, seconded by Mr. Kyono; motion was carried.

Mr. Tresler & Mr. Costa left the meeting at about 2:00 p.m.

STRATEGIC AND BUSINESS PLAN AND NEEDS ASSESSMENT (cont'd)

Re: Updates on the Kaua'i Water Department's Strategic and Business Plan and Water Plan 2020 Program Sustainability Services

Mr. Mark Salmon of RW Beck, who is assisting the DOW with the affordable housing projects, was present at this meeting to give the Board a Powerpoint Presentation update.

Affordable Housing:

An updated Affordable Housing Projects – Summary Status prepared by Mark Salmon with RW Beck is attached for your review.

This memorandum is a summary of progress on the Affordable Housing Projects for your reference. Please see the attached progress report for each project.

Details are provided below.

- ✓ The Kapilimao 0.5 MG Storage Tank final design is complete. The construction contract was advertised for bids on July 10, and bids are due August 21.
- ✓ AMFAC Shaft 11 Renovation Phase 1B field pump testing is complete and comments on the draft report have been returned to the consultant. Preliminary indications are that well may be under the influence of surface water. KDOW is having the entrance to the shaft modified to allow additional sampling and water quality analysis.
- ✓ Easement negotiations with adjacent landowner (Yamamoto) continue for the Kapahi 1.0 MG Tank, but are not progressing well. The appraisal of land value completed in May for Lot 8.4 was rejected by Mr. Yamamoto. Another negotiation letter was sent to Mr. Yamamoto July 28 to encourage him to obtain another appraisal. Options are to pursue acquisition by eminent domain or confine project to land owned by DOW. Direction from DOW is required.
- ✓ A construction contract for the Kapa'a Homesteads 0.5 MG Storage Tank has been awarded. Construction contract execution is underway and a Notice to Proceed will follow. A DLNR CDUA permit renewal may be required.
- ✓ HDR Engineering has been directed to proceed with design of an exploratory well for Kapa'a Homesteads Well No. 4 at the Ornellas Tank site.
- ✓ Staff direction is needed to proceed with final design and EA preparation for the Akulikuli Tunnel renovation. A memorandum with recommendations for revisions to the project has been under staff review since June 2.

Mark Salmon's Affordable Housing Projects' Reports:

Although not directly a part of Plan Implementation, a summary of the Affordable Housing Project activities was included for the Board's reference.

1. (KW-25), Kapilimao 0.5 MG Tank-Summary Project Status: August '08

Project Manager: Mark Salmon -- Design Consultant: Brown and Caldwell

Work underway: bidding

Work ahead: construction

Current Major Area of Focus: bidding

Potential obstacles: none currently

Tentative Date Project in Service: December 2009

- Summary: Construction contract advertised July 10, 2008. Bids are due August 21, 2008.
- Contract Status: Design contract executed. It includes design engineering services during construction.
- Schedule: No issues.
- Permits: All permits received.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: No issues.

2. (KW-28), Amfac Shaft 11 Renovation--Summary Project Status: August '08

Project Manager: Mark Salmon -- Design Consultant: Brown and Caldwell

Work underway: DOH and Basis of Design Report Preparation

Work ahead: final design, environmental/permitting, construction

Current Major Area of Focus: verifying influence of groundwater

Potential Obstacles: water under the influence of surface water – may affect project configuration

Tentative Date Project in Service: December 2009

- Summary: The pumping test report comments submitted to consultant. Additional water quality testing pending by KDOW lab. Samples to be collected for additional water quality testing on August 14, 2008.
- Contract Status: Phase 1B contract complete. Phase 2 contract delayed pending completion of consultant procurement.
- Schedule: See Problems and Proposed Mitigation below.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: None.
- Problems and Proposed Mitigation: Shaft water may be under the influence of surface water. KDOW lab to conduct additional water quality analysis. Shaft needs modification to allow access for water sampling before lab work can be completed. Consultant currently projects completion by September 29, approximately 55 days behind original schedule.

3. (WK-08), Kapahi 1.0 MG Storage Tank–Summary Project Status – August '08

Project Manager: Mark Salmon -- Design Consultant: Belt, Collins

Work underway: final design

Work ahead: final design, environmental/permitting, construction

Current Major Area of Focus: Final design, easement acquisition

Potential obstacles: easement acquisition from private landowner

Tentative Date Project in Service: August, 2009

- Summary: Land acquisition and tank configuration issues remain unresolved. Little progress will be made until land acquisition issue is resolved. Landowner received latest negotiation letter from KDOW on July 28, 2008.
- Contract Status: Final design contract executed.
- Schedule: Construction scheduled for completion August, 2009.
- Permits: No issues.
- Land & Easements: Easement negotiations with Mr. Yamamoto continue.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Project configuration and landowner issues not yet resolved. While negotiations continue, no engineering progress is being made.

4. (WK-09) Kapa'a Homesteads 0.5 MG Storage Tank–Summary Status Report– August '08 Project Manager: Mark Salmon --- Design Consultant: Belt, Collins

Work underway: Contract execution

Work ahead: Construction

Current Major Area of Focus: Contract execution.

Potential obstacles: none currently

Tentative Date Project in Service: July 2009

- Summary: Bids received and opened on May 29, 2008. Contract awarded in June, 2008. NTP scheduled for September 2, 2008. County building permit still pending and construction cannot start until permit received. An extension of the CDUA permit from DLNR is being obtained.
- Contract Status: Contract complete.
- Schedule: No issues.
- Permits: An extension of the DLNR CDUA permit may be required. It currently expires September 8, 2008.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: No issues.

5. (WK-39) Kapa'a Homesteads Well No. 4–Summary Status Report – August '08

Project Manager: Mark Salmon

Design Consultant: HDR Engineering (Hawaii Pacific Engineers)

Work underway: Exploratory well design

Work ahead: well design, environmental/permitting and construction

Current Major Area of Focus: Exploratory well design

Potential obstacles: none currently

Tentative Date Project in Service: December 2009

- Summary: Initial well siting study completed. Consultant has been directed to proceed with design of an exploratory well at the Ornellas Tank Site.
- Contract Status: Phase 1 contract executed.
- Schedule: No issues.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: No issues.

6. (WK-02) Akulikuli Tunnel Renovation–Summary Status Report – August '08

Project Manager: Mark Salmon -- Design Consultant: SSFM Int'l

Work underway: final design

Work ahead: final design, environmental/permitting and construction

Current Major Area of Focus: Project alternatives analysis

Potential obstacles: water quantity and quality unknown – potential addition of treatment

Tentative Date Project in Service: December 2010

- Summary: Some suggestions for tunnel lining and portal improvement alternatives were submitted to DOW June 2, 2008. Design and EA prep slowed pending staff direction regarding the alternatives.
- Contract Status: No issues.
- Schedule: Continued consideration of final project configuration is hampering EA preparation and design.
- Permits: No issues.
- Land & Easements: ROE to adjacent land granted by owners pending approval of ROE agreement at August 2008 Board Meeting.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Lack of staff response to recommendations regarding alternatives has halted progress.

Mr. Costa moved to receive Mr. Salmon's report and place on file, seconded by Mr. Nishimura; motion was carried.

An updated summary by the Issues Champions:

Issue No. 1, Morale:

- a. Fun Committee – Heather Kubota, one of our summer interns became a Pro-Tem Fun Committee member as she coordinated our Alakai Trail Hike, which was on July 19th. Everyone who participated had a great time! It was unanimous that the experience was well worth the pain that followed.

- b. Facilities Plan – A committee will be formed to work on a Facilities Plan in preparation for upcoming consultant services.

Issue No. 2, Strong and Qualified Workforce:

- a. Proceeding to fill Janitor II and CE I (Engineering Div.) positions.
- b. In communication with Department of Personnel Services on recruitment status to fill vacant positions throughout the department (OPS, Engineering, Special Projects, Water Resources and Planning).
- c. Continued planning for training on various areas that include safety, supervisor and policies in progress.

Issue No. 3, Water Quality:

- a. A procedure is in place. We have monitored a few main breaks and are working out some of the bugs, like timing, number of samples, etc. Bill suggested we incorporate MPET into the flow (chart). We met with Tom², our consultant from Four Winds Group and should be able to get on to the MPET system which will help jump start the program.
- b. The data from the main breaks are recorded on data sheets which are kept in the Lab.
- c. A work order for the installation of another sampling station has been placed.

Issue No. 4, Workplace Efficiencies:

- a. Implement State-of-the-Art Technologies for Efficient System Operation
 - (1) Automated Meter Reading (AMR) System
(ongoing project that was implemented in mid-March, 2008.)
 - i. Approximately half of the island is complete with PMI crews continuing to forge ahead working closely with DOW personnel.
 - (2) Geographic Information System (GIS)
 - i. GIS Training was scheduled for some of our engineering and billing personnel. We hope to expand the training to other personnel that would also find GIS a useful tool. Thanks to Jeff Mendez for conducting the training.

Issue No. 5, Accountability:

- a. Cell Phone Policy – Pending approval

Received for the record.

NO EXECUTIVE SESSIONS HELD:

Due to a lack of quorum, the following Executive Session agenda items were deferred to the next Board Meeting.

ES-2008-4 (5-8-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with legal counsel and department staff regarding Benjamin Garfinkle's request for Board Approval to Clarify the Motion made at the December 13, 2007 Board for Agenda Item: "Revised Appeal to November 20, 2007 Agenda Item- Benjamin Garfinkle Regarding DOW Conditions of Tentative Subdivision Approval for Boundary Adjustment (Consolidation and Re-Subdivision), TMK (4) 4-2-03:12, 65 and 66. This consultation involves consideration

of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

ES-2008-5 - Request Board Approval for Reconsideration and Clarification of the Motion Made at the July 15, 2008 Board Meeting on Agenda Item: Testify by A & B Properties, Inc. for a Request for Water Service, 'Ele'ele Industrial Park Subdivision, TMK: 2-1-02:051 and Eleele Residential Development Site, TMK: 2-1-02:003, Portion, 'Ele'ele, Koloa, Kaua'i, Hawai'i

ES-2008-8 (6-05-08) – Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(2), (4), (6) and (8), one of the purposes of this executive session is to consider matters that require confidentiality under state law, to wit, to meet with the Board's legal counsel with regard to the Board's powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as such powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims as they relate to the selection of an individual to be given supervisory and/or managerial and/or developmental and/or consultation duties over the Kauai Department of Water and/or the Kaua'i Department of Water's Water Plan 2020. The further purpose of this executive session is to meet with the Board's legal counsel on questions and issues relating to the Board's powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as such powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as they relate to the foregoing and to take such action as the Board deems appropriate.

Mr. Costa moved to defer the above Executive Session matters, seconded by Mr.Nishimura; motion was carried.

ADJOURNMENT: There being no further business, the meeting was duly adjourned at 2:25 p.m.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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