

REGULAR MEETING MINUTES  
BOARD OF WATER SUPPLY  
**Tuesday, August 21, 2012**

The Board of Water Supply, County of Kaua'i, met in regular meeting at the Board Conference Room in Līhu'e on Tuesday, August 21, 2012. Chairperson Daryl Kaneshiro called the meeting to order at 2:25 p.m. On roll call, the following answered present:

BOARD: Mr. Daryl Kaneshiro, Chairperson  
Mr. Randall Nishimura  
Mr. Michael Dahilig  
Mr. Larry Dill  
Mr. Clyde Nakaya, Vice Chair (*entered meeting @ 2:50 p.m.*)

ABSENT/EXCUSED: Mr. Raymond McCormick  
Mr. Roy Oyama

Quorum was achieved with 4 members present at the time of roll call.

STAFF: Mr. David Craddick  
Mr. William Eddy  
Mr. Val Reyna  
Ms. Joy Buccat  
Mr. Gregg Fujikawa  
Ms. Marites Yano  
Mr. Dustin Moises  
Mr. Keith Aoki  
Mr. Jeff Mendez  
Ms. Sandi Nadatani-Mendez  
Deputy County Attorney Andrea Suzuki

GUESTS: Mr. Clyde Kodani, Kodani & Associates  
Mr. Tom Nance, TNWRE Inc.  
Mr. Greg Allen, Kapa`a Highlands  
Ms. Joanne Allen, Kapa`a Highlands  
Mr. Michael Tresler, Grove Farm Company  
Ms. Shawn Shimabukuro, Grove Farm Company  
Mr. David Hinazumi, Grove Farm Company

**ACCEPTANCE OF AGENDA:**

Mr. Dahilig moved to accept the agenda as circulated, seconded by Mr. Dill; with no objections, motion was carried with 4 ayes.

## **MINUTES:**

### **Review and approval of:**

Regular Board Meeting – July 20, 2012 and Recessed Regular Board Meeting – July 23, 2012

Private Secretary Mary-jane Garasi noted for Board Chair, Kaneshiro to amend the July 20, 2012 Regular Board Meeting minutes to reflect correction on page 5 of 10, 4<sup>th</sup> Paragraph Line 7 Kukuilono should be “Kulana” and page 8 of 10, 1<sup>st</sup> Paragraph Line 3 “sights” should be spelled “sites.”

Mr. Randall Nishimura moved to approve the Regular Board Meeting minutes dated July 20, 2012 as amended, and Recessed Regular Board Meeting minutes dated July 23, 2012, seconded by Mr. Dill, with no objections; motion was carried with 4 ayes.

### **Review & Receive Executive Session Transcript:**

Executive Session – a. July 20, 2012

i. Session 1

ii. Session 2

b. July 23, 2012

Mr. Nishimura moved to defer the review and approval of Executive Session Transcripts dated July 20, 2012 Sessions 1 and 2; and Executive Session Transcripts dated July 23, 2012 to the next meeting, seconded by Mr. Dahilig; with no objections, motion was carried with 4 ayes.

## **CORRESPONDENCE/ANNOUNCEMENTS**

Manager Craddick welcomed Ms. Edith Ignacio Neumiller as the new Commission Support Clerk for the Board of Water Supply Water Board, Ms. Mj Garasi as the new Private Secretary to the Manager, and Ms. Cherrise Zaima as the Secretary to our Deputy Manager, William Eddy.

## **BOARD COMMITTEE REPORTS**

No Board Committee Reports was presented at this meeting.

## **OLD BUSINESS**

Chair Kaneshiro requested for the Board to rearrange the agenda and move the Manager’s Report No. 13-1 to the end of the agenda until Vice Chair, Mr. Nakaya arrives to the Board meeting.

## **NEW BUSINESS**

**Re: *Manager’s Report No. 13 – 2 - Budget Resolution No. 13-1 (12/13), Budget for Fiscal Year 2012-13***

## **DISCUSSION:**

Manager Craddick stated the Board approved the budget in June. One of the adjustments was another .2 billion gallons of water dropped in consumption for the year. With the reduction of revenue, reduction of operating cost estimate for retirement and medical was less with what was

set aside last year. The DOW added \$40,000 to do a study to determine which FRC was paid and had meters. These new changes are reflected in the binders for FY2012.

Mr. Dahilig moved to approve the *Manager's Report No. 13 -2 - Budget Resolution No. 13-1 (12/13), Budget for Fiscal Year 2012-13 as is*, seconded by Mr. Dill; with no objections, motion was carried with 4 ayes.

Mr. Dahilig moved to approve the *Manager's Report No. 13 - 2 - Budget Resolution No. 13-1 (12/13), Budget for Fiscal Year 2012-13 with amendments*, seconded by Mr. Dill; with no objections, motion was carried with 4 ayes.

Mr. Dahilig moved to approve the Budget Resolution No. 13-1 (12/13), Budget for Fiscal Year 2012-13as amended, with no objections; motion was carried with 4 ayes.

**Re: *Manager's Report No. 13 - 3 - Conditional Approval of Grant of Easement from the County of Kaua`i, a political subdivision of the State of Hawaii, and Pa`anau Village Partners LP, a Hawaii limited partnership for the Water Meter Plans for Lot 4-B Pa`anau Village; TMK (4) 2-6-15:020, Koloa, Kaua`i, Hawaii***

**DISCUSSION:**

Manager Craddick stated DOW allowed Pa`anau Village to have their meter which would be removed at the end of the month if they did not have their conveyance and other documents submitted. The conveyance will be on the Kaua`i County Council's agenda for tomorrow's meeting. The Department is requesting that the Board give conditional approval to the council giving the Grant of Easement to Pa`anau Village, then giving the conveyance to the Department. He explained this request did not get to the council in time. It is expected the council will give their approval.

Mr. Dahilig moved to approve *Manager's Report No. 13-3 - Conditional Approval of Grant of Easement from the County of Kaua`i, a political subdivision of the State of Hawaii, and Pa`anau Village Partners LP, a Hawaii limited partnership for the Water Meter Plans for Lot 4-B Pa`anau Village; TMK (4) 2-6-15:020, Koloa, Kaua`i, Hawaii*, as recommended by the Department which is scheduled to be on the agenda for the council meeting dated August 22, 2012, seconded by Mr. Nishimura; with no objections, motion was carried with 4 ayes.

**Re: *Manager's Report No. 13 - 4 - Request Board approval for revising Part 2 Section XXIV Resale of Water Rule***

**BACKGROUND:**

Manager Craddick gave a brief background on the Resale of Water Rule where consumers cannot resell water but DOW does it regularly with hotels and condos. The Water Rule states, "...unless specifically agreed upon, the consumer shall not resell water received by them and the department ...". This clarifies who the agreement is with. Manager Craddick recommended to remove the word "upon" and "received by him" and to change the language to,

“unless specifically agreed by the Manager, the consumer shall not resell any water received by the department.” Manager Craddick is not aware that anyone is giving away the water for free. The condo association pays a portion of the water bill and may be reselling the water.

DISCUSSION:

Mr. Dill commented that individuals would not be reselling the water because they pay an association fee which is a portion of the water bill.

Chair Kaneshiro stated the intent of this rule is to make it clear that the Manager would meet with the tenants if they resell the water.

Manager Craddick stated to Mr. Dill that the purpose is for example, tenants were not paying their water bill. The meter would be removed then their neighbor would sell them water or make the neighbor pay their whole bill and get whatever water they receive.

Manager Craddick agreed with Mr. Dahilig’s comment on the public trust concern which could be an issue. Mr. Dahilig would like the Deputy County Attorney, Andrea Suzuki to provide more information on this rule before making a decision.

Mr. Nishimura asked if the intent to clarify the reselling of water is more of a delegation to the Manager to be given this authority. The way the rule is written addresses those issues. He also added if you reprocess water, is it considered reselling water? It appears the issue that the department and the Board would allow water and if this is vested in the Manager. Manager Craddick stated this is the reason he brought the public trust issue to the Board.

Mr. Dahilig stated if he were to answer to the Kaua’i County Council and if DOW ran into a public trust duty or if a contested case situation happened, this may require Board action where the DOW is severing something from the public trust. This question was posed to Deputy County Attorney, Andrea Suzuki as to why this rule was written this way and by changing three words that we are running afoul of what is our duties to provide beneficiaries their opportunity to contest to resell the water. Deputy County Attorney, Andrea Suzuki would have to look at the rules. She mentioned the report states in some cases there would be some liability which runs through the report.

Chair Kaneshiro understands what Manager Craddick is requesting and the issue of the Supreme Court cases in respect to Mr. Dahilig’s concern.

Mr. Dahilig moved to defer *Manager’s Report No. 13 – 4* – Request Board approval for revising Part 2 Section XXIV Resale of Water Rule to the next Board meeting or until Deputy County Attorney, Andrea Suzuki completes her legal research, seconded by Mr. Dill; with no objections, motion was carried with 4 ayes.

*Mr. Nakaya enters meeting at 2:50 p.m.*

*At 2:51 p.m. Chair Kaneshiro called for the Regular Meeting to recess.*

*At 3:05 p.m. Chair Kaneshiro moved for the Regular Meeting back into session.*

*Chair Kaneshiro requested to rearrange the agenda to go back to Manager's Report No. 13-1 and recused himself from this agenda item.*

*Chair Kaneshiro relinquished his chairmanship to Vice Chair, Mr. Nakaya.*

**Re: Manager's Report No. 13 – 1- (revised) Points of disagreement with the Kapa`a Highlands Proposal**

Mr. Nishimura moved to receive *Manager's Report No. 13 – 1- (revised) Points of disagreement with the Kapa`a Highlands Proposal* which was distributed yesterday, seconded by Mr. Dill; by a unanimous vote, motion was carried with 4 ayes.

**BACKGROUND:**

Manager Craddick and the Board received a revised agreement on behalf of the Kapa`a Highlands Proposal yesterday and did not have sufficient time to read the agreement. Manager Craddick requested to recess the meeting or to consider rescheduling this item to the next Board meeting on September 20, 2012.

*Mr. Greg Allen and Mr. Tom Nance with Kapa`a Highlands provided their testimony.*

After the last meeting, the Board recommended that Mr. Allen and Mr. Max Graham sit and agree because Manager Craddick said they were pretty much in agreement. Mr. Allen and Mr. Graham stayed after the meeting and took notes and drafted an agreement. Mr. Allen's understanding is that the agreement was given to the water management because there were some changes. He incorporated the changes which are the water agreement that is before the Board.

Mr. Allen summarized the agreement for the Board. The agreement will give the DOW a well that will produce 50% more water that they will ever use in the project for Phase I and Phase II or future residential. DOW will let Kapa`a Highlands buy storage on the stables camp tank by paying a pro-rata share of the cost of the tank construction for Phase I, 5 agricultural lots. DOW will let Kapa`a Highlands buy water storage in the Ornellas tank for Phase II which are an additional 7 acre cultural lots or the residential system. Basically the staff wanted Kapa`a Highlands to pay a pro-rata share of the higher cost of the Ornellas tank. Kapa`a Highlands was trying to get DOW to let Kapa`a Highlands buy the storage and stable tank. Kapa`a Highlands agreed to do it from the Ornellas tank.

Mr. Allen stated going back to July 2011, when they had a very short one page Manager's Report it said to trade for a well. This is what Kapa`a Highlands have been working on since July 2011. It was going to be dollar-for-dollar or gallon-for-gallon and it got complicated and now it is a pro-rata share of cost of construction which he thinks is simple.

DISCUSSION:

Mr. Nishimura wanted clarification on Items #1 through #8 on the Manager's Report 13-1 and if it will be addressed by the changes in the agreement that were submitted yesterday.

Mr. Allen explained Item #1 states if Kapa`a Highlands will do more than the county affordable housing. *Mr. Allen said they will be doing the county affordable Ordinance 860 which is up to 30%. It is not more than; but it is meeting the county's ordinance.*

Item #2 states DOW has never given an allocation of resources or committed water before a project has zoning. Kapa`a Highlands is requesting an allocation of resources before getting zoning for its project. *Mr. Allen stated Kapa`a Highlands has zoning and the Land Use Commission (LUC) application has been accepted by staff and is circulating right now. Mr. Tom Nance can address the Water Master Plan and believes it is adequate for the current application.*

Item #3 – states Kapa`a Highlands is asking for a master plan revision to reflect the revised plan. Kapa`a Highlands does not want to provide a revised master plan. The third MOU submitted on or about June 15, 2012 by Mr. Max Graham's office states that they want the Department to agree to provide water meters together with all of their potable, agricultural and fire protection needs to Phase 1, the "residential project" and Phase II if the applicant has bonded the FRC. The FRC should be paid (in full) prior to the DOW building permit approval and the DOW water meter approval. Bonding for FRC should not be allowed as a substitute for all payment for building permit and water meter service. The Rules/Subdivision Ordinance only allow the FRC to be bonded for Final subdivision map approval by the Planning Commission. The Rule further says that the FRC must be paid and necessary (bonded) water system improvements must be completed and accepted prior to water meter approval.

Mr. Allen provided no response to Item #3.

Item #4 states DOW is restricting where storage resources will come so all resources which were installed to meet county affordable housing requirements are not used by a single developer until zoning is approved.

Mr. Allen stated Kapa`a Highlands agrees.

Item #5 in the Summary states the applicant will have the right to pay for storage and to have storage in the Ornellas tank or new department tank allocated to Phase II (Lots 6-12).

Mr. Allen stated Kapa`a Highlands agrees.

DOW wants payment of the storage and in the Summary Kapa`a Highlands will pay DOW at the time of construction. If Kapa`a Highlands does not pay DOW, then they do not have a right to it. *Mr. Allen thinks this is taken care of.* Manager Craddick asked what if the storage is already constructed which is the issue in Item #5. *Mr. Allen stated the only one that is already constructed is the stables and is going to be paid for when they get the permit.*

Item #6 states DOW standards require well site to be conveyed fee simple. Kapa`a Highlands last proposal is to convey a site easement and not fee simple.

Mr. Allen said the easement has not been cleaned up completely. The DOW wants to own the land. Kapa`a Highlands wants to give the DOW an easement because they were trying to get Kapa`a Highland's subdivision done without going back and redrafting the subdivision drawings. In the agreement, Kapa`a Highlands will cooperate with subdividing the land later.

Item #7 states DOW rules require construction and conveyance of water system facilities (distribution, transmission, source and storage) prior to issuance of water service. Kapa`a Highland's latest proposal is that water service for Phase I not be dependent on actual construction of water system facilities.

Manager Craddick stated DOW rules require construction prior to issuance of water service. Mr. Allen stated that should be no problem because they are going to pay. Manager Craddick said it is not possible to give meters if the facilities are not constructed whether they agree on pro-rata share or not. He understood from the previous agreement Kapa`a Highlands wanted to get those meters without the facilities being constructed.

Mr. Allen thought the fact was clear that there was plenty of storage in the stables camp tank but DOW wanted Kapa`a Highlands to pay the higher cost of the Ornellas tank. So DOW wants Kapa`a Highlands to pay the higher cost of the Ornellas tank assuming that Kapa`a Highlands would not be building the units until after that was completed. Unless if they were building units before the Ornellas tank was completed, Kapa`a Highlands would have to come to DOW to ask if there was some portion is available off stables.

Manager Craddick stated DOW is charging for one tank where the storage is coming from. Mr. Nance added as it is drafted, the storage for Phase I is max day for 20,000 gallons. This is the only thing that comes out of storage tank. Kapa`a Highlands would have completed the well facilities and given it all to DOW before getting all the services for the first 5 agricultural lots. Storage and everything else is dependent on Ornellas or Kapa`a Highlands building another tank.

Item #8 states DOW has offered to explore the possibility of bonding and cost sharing of the Kapahi 325' tanks that are currently in design to satisfy the storage requirements for the current 13 lot subdivision that has tentative subdivision approval.

Mr. Allen stated this is in the current agreement.

Mr. Allen said the deadline with the Planning Commission is the end of August for approval for the agricultural subdivision. If it is not approved in August, it will be rescinded by the Planning Commission.

Mr. Nishimura questioned why is Phase II part of the agricultural subdivision. Mr. Allen stated the agricultural subdivision is two phases; 5 agricultural lots and 7 agricultural lots. The 7 agricultural lots equal or are the same area that the County of Kaua`i General Plan (GP) designates for residential. When Kapa`a Highlands inherited the subdivision project, they went

to the county and it was evident the county did not want agricultural but wanted urban or residential lots. The county entitled it urban. This is what they are doing through the LUC and they are doing very well. If it were not to happen, the tentative approval they have now is for agricultural.

Mr. Tom Nance explained the supply number of Phase I of the agricultural max day number is only 20,000 gallons which is really small. The max day number for Phase II is 60,000 gallons if it remains agricultural. This is a very small amount versus a well that is going to produce 60,000 gallons. The max day number is 20,000 gallons plus 60,000 gallons which is a total of 80,000 gallons max day amount for Phase I & II (in round numbers). These are average day numbers (multiplied by 1.5 a ballpark figure).

Mr. Allen stated from a layman's perspective, it looks like we are going to provide a good source of water. Mr. Allen stated they need storage to build housing in Kapa'a. This is something that has been in the GP since the 1970's. Kapa'a Highlands have been trying to fulfill the desire of the GP to do what is generally perceived the right thing in the area. In order to do this, they need storage for water. Mr. Allen heard prices on the Ornellas tank on what it is going to cost, is more that they can build a private water system for. We are trying to play the game and be part of the county, to have people on county water and be part of the Kapa'a community. Mr. Allen agrees the Board needs time to read the revised agreement because the agreement has gone back and forth. Mr. Graham and the Water staff met and there are more changes to the agreement.

Mr. Allen stated that the subdivision agreement will be lost which was from the result of Mr. Teixeira at the last Planning Commission meeting. The agreement does not have any more extensions until August and maybe the Planning Commission may change their mind. Mr. Allen stated the Board can speak to that.

*At 3:23 p.m. Vice Chair, Nakaya has called the Regular Meeting into a recess.*

*At 3:25 p.m. Chair Kaneshiro reconvened the Regular Meeting back to session and to rearrange the agenda to move Manager's Report No. 13-1 to the end of the agenda and continue on Manager's Report No. 13-5 - 2012 Goals for the Manager / Employee Morale*

**Manager's Report No. 13-5 - 2012 Goals for the Manager / Employee Morale**

**BACKGROUND:**

Manager Craddick indicated the Manager's Position Description was not updated since 1962. There are 17 tasks in the Board binders which Manager Craddick would like the Board to rank in order of importance (10 being highest importance). Some of the goals for the Manager will be rewritten in the Position Description.

**DISCUSSION:**

Mr. Nishimura's primary purpose of putting the Manager's Report No. 13-5 on the agenda is to review the goals established for the Manager and to compare his progress relative to the goals that were set for him. The Board should look at how the Manager stands on the goals from the last fiscal year 2011 – 2012. Manager Craddick has put together his goals for the future which is



a step in the right direction. Chair Kaneshiro stated goals are set by the Board and Manager Craddick recommended his goals to be achieved.

Manager Craddick indicated the water consumption for the last fiscal year should be done the end of month. The evaluation for next year needs to be in June 30, 2013. Next year the evaluation should be done April 2013 for Department of Personnel's Civil Service. The Board will be looking at the end of this fiscal year's numbers.

Mr. Nishimura stated he would like to look at the goals set for the Manager Craddick and to see his performance the last fiscal year, June 2011 to July 2012. Mr. Nishimura would like to separate the goals because one of the goals is for the future. There were some goals that were lumped together depending on how they were rated. Four goals were rated for personnel. If a rate was for one high, one medium and the other low, then it becomes a meaningless measure.

Mr. Nishimura needed the status of the encumbrance of money and if the Board will get the accounted water loss which was due three years ago. What are the results of employee morale survey? Manager Craddick stated the Source Water Protection Plan is under the "Status" column of the chart. A professional services package is all that is needed and to select a name.

Mr. Nishimura asked about Item #6, Performance Indicators, the Status column listed "Established within the DOW." Manager Craddick stated the Board has last year's numbers. The audit will be out November 2012. Item #6 (5) Unaccounted for Water Loss was 5% or 6% but Mr. Eddy stated the numbers will be corrected before September 30, 2012 which is the AWWA deadline. The complete package was done for performance indicators with great detail and sent to AWWA and was published. Manager Craddick stated the results were reported to the Board last October 2011. For this fiscal year, the numbers are not available yet. This reporting will have to be moved up early in the year so that the numbers will be reviewed on March 2013 and will be based on the audited numbers that will be received in November 2012.

Mr. Dill would like to see clear answers to the deadlines and how the deadlines were met or not met, what the status is and the plan. On each of those goals, there should be clear deadlines. There is no clear respond to evaluate the Manager's goals in respect to the goals. Manager Craddick agreed to this recommendation.

Mr. Nishimura stated the survey was very good. There were 18 criteria and seemed to be redundant or other measures might be put into place. Manager Craddick stated he put the 2012 Goals for the Manager together. Mr. Nakaya asked if under Business Result goal, "Provides educational programs to advance the professional, technical, and managerial skills of the membership and staff" should go under Organization and Staffing goal. Manager Craddick agreed with this recommendation.

Manager Craddick said some of the employees did not participate in the Employee Satisfaction Survey and he is not sure why this happened. He is aware which divisions did not participate.

Mr. Nishimura moved to have Manager Craddick refine the *Manager's Report No. 13-5 - 2012 Goals for the Manager / Employee Morale* for the next Board meeting, seconded by Mr. Dill; with no objections, motion was carried with 5 ayes.

*At 3:50 pm, Chair Kaneshiro called for the Regular Meeting into a recess while he relinquished his chairmanship to Vice Chair, Mr. Nakaya and he recused himself from resuming Manager's Report No. 13-1(revised) Points of disagreement with the Kapa`a Highlands Proposal.*

*At 3:55 p.m., Vice Chair, Mr. Nakaya reconvened the Regular Meeting back into session.*

**Re: Manager's Report No. 13 – 1- (revised) Points of disagreement with the Kapa`a Highlands Proposal**

Mr. Nishimura moved to receive the letter granting an extension until August 31, 2012 to the applicants along with the *revised* subdivision report dated October 9, 2007 and stamped October 10, 2007 into the record; seconded by Mr. Dahilig; by a unanimous vote, motion was carried with 4 ayes.

Mr. Dahilig stated this would be the applicant's 10<sup>th</sup> request for extension with the Planning Commission but nothing has been officially been written. There is a possibility for the extension to be extended but he cannot know how the Planning Commission would react. Mr. Dahilig has not formulated his recommendation to the Planning Commission members regarding the applicant.

Mr. Dahilig would like to understand if the word "shall" should be there instead of "may" in Paragraph 2. This project has not been received for approval from the LUC. The Planning Commission has not received concurrence from the LUC regarding this proposal. If the agreement is reached between Manager Craddick and Kapa`a Highlands, Manager Craddick would recommend to the Board and give extraordinary attention and approval by the Board beyond the Board's normal practice. Is this approval worth what is usually never done.

Manager Craddick said the Board had a list of affordable housing projects that they wanted to push development for the tank. The county is not going to move forward on those affordable housing projects. Manager Craddick stated the Kapa`a is deficit in source and the applicant is offering source which is a high risk in DOW's business. The extra source is why the Board is in this discussion. The source may be enough for the applicant's own development. The project may go bad with the applicant, they get nothing and DOW has given nothing. If the project is good, then DOW benefits. The timing may run out for the application to proceed with their project. Mr. Dill asked if this project moves forward, would this be a concern for the department. Manager Craddick stated if someone offered DOW to develop source with no risk to DOW, this would be on a case-by-case bases.

Mr. Dahilig noted from Planning Commission's initial comments in the 2007 report for a subdivision approval, it made no mention on the current improvements that the Board is discussing today. His impression has transpired during the five-year period as a big attempt to add items. Which was first an agricultural subdivision approval of water is now the 25 steps

reclassification of this property into urban and a subsequent track to development. If DOW says that we do not need to do the source development, would the applicant unwind everything to say DOW is still satisfied on what was required based on the original subdivision agreement.

Manager Craddick said the applicant did not want to give the well knowing that it could produce more and not being able to use it. There would be other ways of doing the agreement.

Mr. Dahilig said there is an LUC issue and a final subdivision approval for the applicant to get their extension. He is not certain what the applicant has before the Board. It depends upon whether they can meet the threshold of an extension of final approval at the Subdivision Committee and Planning Commission next week Tuesday. The LUC issue is not a project that is being entertained. But for the DOW to say having the LUC matter folded into would end up being the final subdivision approval that gets filed with the Bureau of Conveyances, this would be an advantage for DOW to delay a decision. If this is not incumbent the applicant can get through the Planning Commissions stages, then DOW can delayed a decision. Manager Craddick says there is a high risk value to continue the process of negotiation. The Planning Commission issue needs to be unlocked and if the Board can get a clear decision from Manager Craddick whether to move forward on this project or not.

Deputy County Attorney, Andrea Suzuki will render legal advice as it pertains to the agreement's time frame on this matter and to check with the County Attorney. Mr. Dahilig moved to go to executive session, seconded by Mr. Dill.

Vice Chair, Mr. Nakaya requested for a roll call vote.

Board Member, Mr. Nishimura  
Board Member, Mr. Dahilig  
Board Member, Mr. Dill  
Vice Chair, Mr. Nakaya

At this time, 4 Board members answered Aye to the roll call vote.

*At 4:15 p.m. Vice Chair, Nakaya recessed the Regular meeting, while the Board convened into an executive session.*

***Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to provide the Board with a briefing regarding a County Attorney opinion. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the Department as they relate to this agenda item***

*At 4:50 p.m., Vice Chair, Mr. Nakaya called the Regular Meeting back into session.*

**Re: Manager's Report No. 13 – 1- (revised) Points of disagreement with the Kapa`a Highlands Proposal**

Mr. Dahilig moved to decline negotiations and rescind the Board to stand on the last submittal of the Revised Subdivision Report to the Planning Department dated October 9, 2007 to the original seven conditions; seconded by Mr. Nishimura; 3 ayes and 1 nay from Mr. Dill.

Mr. Dahilig referred to the Revised Subdivision Report dated October 9, 2007 and the set of conditions. If in the absence of non-portable water through a ditch system they would have to develop the adequate source of storage with request to meeting the differential that was originally proposed.

Mr. Nishimura stated between now and Monday all the outstanding concerns with DOW can be resolved which might put the DOW at further risk. He is supporting Mr. Dahilig's motion. Deputy County Attorney, Andrea Suzuki stated the deadline is not on the Board but on the applicant.

Mr. Dill asked if action can be deferred. Mr. Dahilig feels it would not be prudent to continue this course of action under the circumstances the Board is under.

*At 5:08 p.m., Vice Chair, Mr. Nakaya recessed the Regular Meeting while Deputy County Attorney Andrea Suzuki refers to Board ordinance regarding no majority vote.*

*At 5:26 p.m., Vice Chair Mr. Nakaya called the Regular Meeting back to session.*

Deputy County Attorney, Andrea Suzuki stated for the record, motion is terminated with no majority vote and to continue/maintain the status quo "the state of affairs that existed previously and continue negotiation."

Mr. Dill stated he is not prepared at this time to reconsider his vote. There are still possibilities for negotiations. If the Board continues to negotiate with the applicant, as the Deputy County Attorney indicated, the deadline is on the applicant with Planning Commission. This has no bearing on the Board to make a decision and that gives a window for these negotiations which may not happen because the DOW has concern and that the Board and the Deputy County Attorney just received the agreement. We should give the applicant the respect to look at the document and to respond to it stated Mr. Dill.

*At 5:30 p.m., Board Member, Mr. Dill exits.*

*At 5:30 p.m. Chair Kaneshiro resumes the agenda items and moves to item I. Staff Reports*

**STAFF REPORTS**

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

Manager Craddick reported there is an ending balance of \$2 million. The auditors will be here in two weeks. Mr. Nishimura asked if all of the outstanding audit issues were resolved in the audit report. Mr. Craddick responded that the main issue was Fire and they have been billed with

adjustments made. There has been a good job on open ledgers accounts being closed with the graphs that Ms. Yano gives the Board each month on the reporting of the revenues and monthly deposits. Open assets schedules are getting closed. There have been a number of jobs that were open. Kukuiula has not been closed and assets were not booked and it is approaching \$15 million. The processing for closing and getting this off the books is not moving along with any regularity.

Mr. Dahilig moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures, seconded by Mr. Nakaya; by a unanimous vote, motion was carried with 4 ayes.

**Re: Report by the Public Relations Specialist on Public Relations Activities**

Manager Craddick reported power went down on three water sources due to a fire in Koke'e this past Saturday. Publicity was sent out to the media for the public on the west side to conserve water. The fourth water source was able to keep up. The media message has not been rescinded. One of the three sites is now back on line.

Mr. Nishimura stated on TV this morning there was the announcement of the Water Board's Public Hearing. He thought this was good publicity.

Mr. Nishimura moved to receive the Report by the Public Relations Specialist on Public Relations Activities, seconded by Mr. Nakaya; by a unanimous vote, motion was carried with 4 ayes.

**Re: Chief of Operation's Summary Report on Monthly Operational Maintenance**

Manager Craddick reported there were training classes for public relations, leak detection, and a lock out seminar. Five employees took a treatment plant operator license certification exam and passed with 100%. Additional treatment plant operators were upgraded to Level III position and one is a Level II position. Mr. Reyna stated DOW can legally operate the treatment plant. Interviews were done last week for the Inspectors and the Account Clerk. Mr. Nishimura thanked Mr. Reyna for the Kalaheo leak repair summary.

The Engineering reorganization report is expected before next month.

Mr. Dahilig moved to receive the Chief of Operation's Summary Report on Monthly Operational Maintenance, seconded by Mr. Nakaya; by a unanimous vote, motion was carried with 4 ayes.

**Re: Water Resources and Planning Subdivision Report**

Mr. Dahilig moved to receive the Water Resources and Planning Subdivision Report, seconded by Mr. Nakaya; by a unanimous vote, motion was carried with 4 ayes.

**Re: Manager's Monthly Update Regarding Activities of Note of the Kaua'i County Water Department**

Manager Craddick reported a couple of contracts for electrical work at Kalepa. Part of the efficiency contract was awarded to Derrick's Well Drilling and Pump Service replacing the motors with high efficiently motors. Mr. Reyna stated installation is not included but will be installed by DOW. Esaki Surveying is a new contract at the UH Experimental Farm. The existing contract was cancelled because UH wanted free water in exchange for this site which was not an option. The vouchers were paid \$4.17 million this month. There were conveyances for two water facilities. The Billing Schedule System will "Go Live" in December for monthly reads. There was no Task Force meeting held on affordable housing. The BAB is close to \$39 million for September 2013 remaining to be encumbered.

Mr. Nishimura moved to receive the Manager's Monthly Update Regarding Activities of Note of the Kaua'i County Water Department seconded by Mr. Nakaya; by a unanimous vote, motion was carried with 4 ayes.

### QUARTERLY

#### 1. Project Status Update (*revised from July 20, 2012 Report*)

Manager Craddick reported another sample was taken on the Amfac shaft last week. The Koke'e fire this past Saturday was a challenge in getting the generator hooked up before the fire came through.

The Kapahi 1 MG tank is almost finished.

There is a report but DOW is requesting to do a treatment plant at the Kokolau rehabilitation site rather than bringing it in and doing the treatment plant behind the new Safeway. From an energy point of view, having the water gravity feed is good and not having to construct power lines going out is also good. Dealing with residuals and back wash water at the site, DOW may not be able to get a permit. The site is not very big and may not be able to handle the back wash water. This may cost DOW more but may not be at Kokolau but at a different site or a ditch for the back wash water.

Part of the analysis is to look at proposed sites and cost benefit. Mr. Eddy said this focused on the energy savings aspects of the cost analysis. DOW needs to talk to Grove Farm regarding sewer issues and to resolve this now because the issues are fundamental and it would help site the treatment plant.

Mr. Nishimura moved to receive Project Status Update (revised), seconded by Mr. Dahilig, by a unanimous vote; motion was carried with 4 ayes.

### TOPICS FOR NEXT WATER BOARD MEETING

1. Public Hearing Results-Request Board Approval of the Part 2 Section IX Rules
2. Public Hearing Results-Request Board Approval of the Part 3 Section XII Rules
3. Tentative 2013 Board Meeting Dates
4. *Manager's Report No. 12-86 (revised)* – Qualifications for Agriculture Charges and Rates in Part 4 Section III of the Rules **Draft**

5. Class Action Case: City of Greenville v. Syngenta Crop Protection, Inc., and Syngenta AG

**TOPICS FOR FUTURE WATER BOARD MEETINGS**

1. Annual Extension (11-18-12 to 11-17-13) of Volunteer Agreement with Mike Fernandes for Grounds Maintenance of our Nonou 0.2 MG Tank site located in Wailua Houselots (*October 2012*)
2. Quarterly Update on Project Status (*October 2012*)
3. Quarterly Update on Affordable Housing (*October 2012*)

**UPCOMING EVENTS**

1. Project Wet – Make a Splash – September 27, 2012, Department of Water
2. HWWA Conference – October 17-19, 2012, Ala Moana Hotel, Honolulu

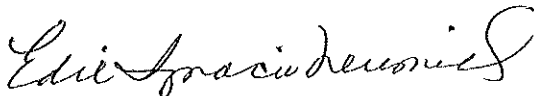
**NEXT WATER BOARD MEETING**

1. Thursday, September 20, 2012, 10:00 a.m.
2. Thursday, October 25, 2012, 10:00 a.m.
3. Thursday, November 29, 2012, 10:00 a.m.
4. Thursday, December 27, 2012, 10:00 a.m.

**ADJOURNMENT**

There being no further business, Chair Kaneshiro adjourned the Regular Board meeting at 6:03 p.m.; with no objections, motion was carried.

Respectfully Submitted,



Edie Ignacio Neumiller  
Commission Support Clerk

Approved,



Randall Nishimura  
Secretary – Board of Water Supply