

NOTICE OF PUBLIC HEARING
COUNTY OF KAUAI

The Board of Water Supply of the County of Kauai (“Board”) will hold a public hearing and receive public testimony and comments from all interested persons regarding the following item:

Benefit Zones

§46-144 Collection and expenditure of impact fees. Collection and expenditure of impact fees assessed, imposed, levied, and collected for development shall be reasonably related to the benefits accruing to the development. To determine whether the fees are reasonably related, the impact fee ordinance or board rule shall provide that:

(2) Collection and expenditure shall be localized to provide a reasonable benefit to the development. A county or board shall establish geographically limited benefit zones for this purpose; provided that zones shall not be required if a reasonable benefit can be otherwise derived. Benefit zones shall be appropriate to the particular public facility and the county or board. A county or board shall explain in writing and disclose at a public hearing reasons for establishing or not establishing benefit zones;

Public hearings will be held at 6:00 pm, or soon thereafter, on the following date, at the location given below:

Thursday, January 23, 2014
Kauai County Department of Water’s Microbiology Lab Building,
4398 Pua Loke Street, Lihue

A copy of the proposed recommendation will be mailed to any interested person who requests a copy and pays the required fees for the copy and the postage. Requests may be made by calling the Water Manager’s Office at (808) 245-5406, or by submitting facsimile requests to (808) 246-8628. Requests may also be made up to and including the date of the public hearing.

All interested persons may submit data, views, arguments, or other testimony orally or in writing, or both, concerning the proposed rule amendments. Data, views, arguments, or other testimony may be submitted any time up to and including the date of the public hearing, or at the public hearing itself. Data, views, arguments, or testimony may be submitted by e-mail to eineumiller@kauaiwater.org, by facsimile to (808) 246-8628 or by U.S. mail to the Water Manager’s Office, whose address is Kauai Department of Water, 4398 Pua Loke Street, Lihue, Kauai, Hawaii 96766.

Special Accommodations for persons with disabilities are available upon request five (5) days prior to the meeting date. Please call the Department of Water, County of Kauai, at 245-5406 or drop by at 4398 Pua Loke Street, Lihue, Kauai. Our mailing address is PO Box 1706, Lihue, HI 96766.

BY ORDER OF THE BOARD: Randall Nishimura, 2013 Chairperson

DEPARTMENT OF WATER

County of Kaua'i

"Water has no Substitute – Conserve It!"

MANAGER'S REPORT No.12-56

December 23, 2013

Re: Determination of Reasonable Benefit from Expansion Project Impact Fees without Establishing Benefit Zones

Recommendation:

The County of Kauai Department of Water (Department) requests approval from the County of Kauai Board of Water Supply (Board) approval for the determination that a reasonable benefit can be provided to developments without establishing benefit zones.

Background:

The Board currently has a schedule of impact fees that is used for financing system expansion; these charges are referred to as Facility Reserve Charges. Hawaii State Law, governing impact fees, currently requires the following:

"Collection and expenditure shall be localized to provide a reasonable benefit to the development. A county or board shall establish geographically limited benefit zones for this purpose; provided that zones shall not be required if a reasonable benefit can be otherwise derived. Benefit zones shall be appropriate to the particular public facility and the county or board. A county or board shall explain in writing and disclose at a public hearing reasons for establishing or not establishing benefit zones;"

The Board has not established benefit zones to date. Subsequent to the law being enacted there is no record of the Board ever disclosing at a public hearing reasons for establishing or not establishing "Benefit Zones".

The Department recommends that a benefit zone not be adopted for several reasons. First, the types of improvements to each type of public facility considered in Water 2020 will benefit all new development in the County and therefore it is appropriate to treat the entire County as a single service area for purposes of calculating the impact fees. Secondly, the costs of engineering, maintenance and operation required by the Department's water system are not charged or allocated according to system areas because all costs are considered to go to the betterment of the entire system. Thus, not establishing a benefit zone reflects the current view and operation of the Department. Finally, it is in the public's and the Department's best interest to create an equitable impact fee so that the Board can levy a more proportionate share of the costs of required improvements on those developments that create the need for them.

Facility Reserve Charges have been in place for Kauai since the 1960's. It appears that the funds collected have been spent throughout the County and the Department's water system. Some systems have seen more or less projects, but generally reasonable benefits have been derived on a uniform basis and no system has been allowed to go completely without additional water

available for development. It should be mentioned, however, that some larger projects have been required to provide systems for that specific development.

Funding:

No additional funding required for public hearing.

Reasons for not establishing geographically limited Benefit Zones:

1. Water Plan 2020 projects benefit the entire water system
2. The current operations of the Department reflect the fact that the entire County water system is one system.
3. Not establishing benefit zones allows for a more equitable and proportionate impact fee.

Reasons for establishing geographically limited Benefit Zones :

1. Costs are focused when projects in one system are determined only for that system.

Respectfully submitted,



Kirk Saiki, P.E.,
Acting Manager and Chief Engineer

KS/mjg

Mgrrp- Determination of Reasonable Benefit from Expansion Project Impact Fees without Establishing Benefit Zones (12-23-13)