

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Tuesday, July 15, 2008

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Tuesday, July 15, 2008. Chairperson Roy Oyama called the meeting to order at 10:20 a.m. On roll call, the following answered present:

BOARD: Mr. Roy Oyama, Chairperson
Mr. Ian Costa (present at about 10:30 a.m.)
Mr. Dee Crowell
Mr. Donald Fujimoto
Mr. Leland Kahawai
Mr. Steven Kyono
Mr. Randall Nishimura

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
First Deputy County Attorney Harrison Kawate

GUESTS: Mr. Lindsay Crawford, Kukui'ula Development LLC (left at about 10:32 a.m.)
Mr. Thad Bond, Kukui'ula Development LLC (left at about 10:32 a.m.)
Mr. Ben Wellborn, Mr. Garfinkle's consultant (left meeting at about 10:35 am.)
Mr. Tom Nance, Mr. Garfinkle's consultant (left meeting at about 10:35 am.)
Mr. Tom Shigemoto, A&B Properties (left at about 1:05 p.m.)
Mr. Dan Yasui, A&B Properties (left at about 1:05 p.m.)
Mr. James Hasenyager, A&B Properties (left at about 1:05 p.m.)

AGENDA

Acting Manager Ushigome requested that since our consultant would be available for a conference call at about 11:30 a.m. for Executive Session Item No. 4, could the Agenda be reordered to about that time and then to have Old Business, Item No. 4, to also be re-ordered and taken up after Executive Session.

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

MINUTES

Regular Meeting - June 5, 2008

Mr. Kyono moved to approve to receive the Regular Meeting minutes of Thursday, June 5, 2008 and place on file, seconded by Mr. D. Fujimoto; motion was carried.

Special Meeting - June 18, 2008

Mr. Kahawai moved to approve to receive the Special Meeting minutes of the Wednesday, June 18, 2008 Meeting and place on file, seconded by Mr. D. Fujimoto; motion was carried.

CORRESPONDENCE: None

OLD BUSINESS

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

Mr. Lindsay Crawford and Mr. Thad Bond of Kukuiula Development Company (Hawai'i) LLC were present at the meeting, 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*, to apprise the Board on the status of their water requirements and a progress report on their leak detection and repair schedule.

Water System Completion

Essentially, all water system improvements are built and lines pressure tested. The majority of the wells, tanks and pipelines have been chlorinated and have passed bac-t testing ... those remaining will be chlorinated this month (July). Piwai Well # 3 was started up and ran successfully on June 13. Well efficiency testing is almost complete. KDC estimated that the Piwai Well Complex will be connected to the DOW system and in service by July 11.

Mr. Crawford added that Y Subdivision has one more component, as they needed to rechlorinate and take new samples; they will re-test this Thursday and Friday. M Subdivision has been chlorinated, passed and now hooked up. The only remaining pipelines that need to be chlorinated are the pipelines that extend from their northern project, from this M Subdivision to the Manuhonuhonu Tanks. So by the end of July 2008, they should be finished.

On query by Mr. Nishimura, Mr. Crawford stated that the major project road pipeline does feed the plantation core and that has also been tested, passed and energized.

Water System Conveyance

To date, conveyance and grants of easements documents have been submitted to DOW for 4 of the 10 water system improvements. Omao Transmission Line has been accepted by the Board. Those not yet submitted are being prepared now and will be submitted over the next 6-week period.

Waiver, Release and Indemnity Agreements

Executed waivers have been submitted to DOW for 2 additional building permits for electrical enclosures associated with our Kukui'ula Village (commercial), for 30 building permits associated with our Plantation Core (resort facility) and for our first 3 residential building permits in Subdivision Y and M1M4. More waivers for residential building permits will be submitted to DOW over the next 6 weeks, as they are returned (co-executed) by individual lot owners.

Acting Manager Ushigome added that the building permits would be signed upon receipt of the recorded Waiver documents.

Mr. Inouye also gave an update that the Piwai Well efficiency test was done but the readings on the analyzer did not appear reasonable. The pump subcontractor suspected that the firmware loaded on the analyzer was outdated and this was later proved to be true. Therefore, another efficiency test was re-scheduled for Thursday, July 17, 2008. Mr. Crawford added that one of his crew thought the readings were too high; therefore, it was scheduled to be re-done.

On query by Mr. Crowell, Mr. Crawford stated that he has been working on getting the Waivers done with the homeowners, which can be time consuming but he had 2 Waivers to submit to the DOW today. Mr. Crawford added that their building permits have been routed to the other reviewing agencies in the meantime while they are getting the Waivers done and recorded.

Mr. Costa was present at the meeting at about 10:30 a.m.

Water Master Plan Update

Kukui'ula last received Master Plan Update review comments from DOW on January 28, 2008. In those comments the Department was requiring a new separate 8" water main be constructed in Po'ipu Road. Kukui'ula would be willing to design and construct said additional facility if DOW will pay for the cost to do so.

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

Mr. Crawford and Mr. Bond both left the meeting at about 10:32 a.m.

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 Resubdivision) TMK Nos.: (4) 4-2-03:12, 65 and 66, Wailua Homesteads, Kauai

Mr. Ben Wellborn, Consultant, and Mr. Tom Nance, Consultant were present for this agenda item.

Acting Manager Ushigome recommended that this matter be deferred to the next Board Meeting for further review of their latest report.

Mr. Crowell moved to defer this matter to the next Board Meeting, seconded by Mr. D. Fujimoto.

Mr. Wellborn was present at the meeting in case the Board had any questions.

On query by the Board, Mr. Kawate clarified that this matter was up for Board's reconsideration of a previous motion made and the Board requested a submittal by the applicant to the DOW stating specifically what it would entail as far as the parameters and specs for a private water system, which the Department staff has not had enough time to review.

Motion was carried.

Mr. Welborn and Mr. Nance left the meeting at about 10:35 a.m.

Re: Request to 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, affecting a total area approximately 48 acres

Mr. Tom Shigemoto, Mr. Dan Yasui, and Mr. James Hasenyager of A&B Properties, Inc. were present at the meeting.

FINDINGS: (Note: New information received below were bolded.)

I. ACTIONS REQUIRED:

A&B is asking the Board to waive the obligations as set forth in Ordinance No. PM 293-94 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 – Reclassifying Certain Lands Situated at 'Ele'ele for Agricultural to Urban (TMK: 2-1-01 por. 3 and por. 27).

The Department of Water identified these projects as being located outside of the Department's 'Ele'ele service area. The Department is recommending that the applicant adhere to the Department's recommendations that were made for various land use designation, zoning amendment, SMA (U) permit and subdivision applications for the project area. At the May 8, 2008 Board meeting, A & B questioned "who the water is being reserved for?" The Board requested that the Department provide additional information regarding the amount of potential water demand that would be required for future "in-fill" development within the 'Ele'ele service area. The applicant is requesting to use existing water source and storage capacity from the Departments existing water system facilities. The Board Report/Minutes of May 8, 2008 Board Meeting was attached to this report for the Board's information.

II. PROJECT DESCRIPTION AND USE:

The May 8, 2008 Board Report was attached to this revised report.

III. LEGAL REQUIRMENTS:

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 recommends 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.

IV. APPLICANT'S REASONS/JUSTIFICATION:

Refer to Applicant's April 10, 2008 letter to the Board and the applicant letter of May 15, 2008 submitting revised demand calculation for the project.

ADDITIONAL FINDINGS

In response to the Board's motion at the June 5, 2008 meeting, the Department is reviewing the 'Ele'ele Water System capacity to address the Board request that the applicant work with the Department to come to some agreement as far as how much source, how much storage, A&B is asking for how much the Department wants to reserve for future in-fill demands.

The Department and A&B met on June 23, 2008. A&B's estimated the maximum day demand (MDD) to be 120,000 gpd for the 20-acre parcel Industrial Park Subdivision.

If the Board is considering allocating the maximum amount possible to allow A&B to develop the Industrial parcel, it would appear the storage capacity is the limiting factor. The available storage capacity in 'Ele'ele is 1.0 MGD, therefore with the existing MDD demand at 0.662 MGD, the remaining storage capacity available for future in-fill development would be 0.338 MGD. This allows an additional 26 single-family units to be developed without any additional storage requirements.

However, as previously presented to the Board, all the water that services 'Ele'ele essentially is pump up from Hanapepe Valley through a single-feed transmission main. The Eleele (750 gpm) booster pumps were installed by A&B prior to 1990. When these booster pumps were installed, were the pumps sized to provide water to the 'Ele'ele Industrial Park and the 'Ele'ele Residential Development site? If so, then A&B should provide the engineering reports and reference documentation to substantiate that the booster pumps are adequately sized.

Based on the Board's motion, if there is not enough source and storage for the both the Industrial Park and the Residential Development subdivisions, would

a temporary designation of water availability be a consideration in order to allow the Industrial Park parcel to move forward. The Department interpreted the Board's intent for a "temporary designation" to mean the Board still intended that A&B fulfill its requirement to provide the source and storage water demands for both the Industrial Park and for the 'Ele'ele Residential Development projects.

According to A&B, if the Board waives the water requirements for the Industrial Park, there would be no future obligation. So if A&B plans to develop the 'Ele'ele Residential Development parcel, and if "the cost figures do not pencil out", A&B could walk away from doing the project.

Further, upon review of A&B Properties, Inc.'s petition for District Boundary Adjustment and Certificate of Service submitted to the State Land Use Commission, A&B stated in its application that "With respect to water, the Petitioner plan to develop a water well and storage facility to service the proposed development", page 17. The boundary adjustment encompassed the lands mauka and makai of Halewili Road and included both the 'Ele'ele Industrial Park and the 'Ele'ele Residential Development sites.

A& B Properties' Development Plan (Exhibit 4), Chapter III.C.-Water Plan indicates "The project is intended to be served by the County water system. Various on-site distributions systems and upgraded off-site transmission systems will be installed by A&B at its expense in accordance with County requirements. An additional water well and storage facility will have to be developed in order to serve the project, as more fully set forth in the Engineering Report (Exhibit 7). A&B Properties does not anticipate any problems in developing the water well and storage facility so as to meet A&B's development timetable for the project. A&B will be responsible for the payment of its pro rata share of the cost of developing a new water well and storage facility required to service the project. Based upon the improvements to be constructed by A&B , the proposed water system will be adequate to serve the proposed development; no public agencies providing water services or facilities will be unreasonably burdened by the proposed development; the water system will not have any adverse impact upon any surrounding areas; and the water system and water requirements for the project will not necessitate an unreasonable investment in public infrastructure or support services or commitment of State funds or resources."

To address the Board's inquiry which would allow A&B to utilize the available storage capacity and limit the in-fill development in Eleele, the following is a revised status of the 'Ele'ele Water System based on 2006 consumption data. Water demands are based on maximum day demand (MDD) criteria and are indicated in million gallon per day (MGD) units.

The Department reanalyzed the "Status of Source and Storage" spread sheet for the 'Ele'ele water service zone and included the following revisions:

- The Pending development spread sheet was modified to include additional potential development within the 'Ele'ele service area. These additional developments included subdivisions with tentative subdivision approval,

lots with no meter service and potential ADU development within residential zoned areas.

- Pending development demands for 'Ele'ele Nani Subdivision Phase I & II were reduced.
- Fourteen (14) lots without water meter service were added to the "Pending developments" spread sheet.
- The "'Kaua'i Habitat for Humanity" subdivision phase II (107 lots) which has tentative approval from the Planning Department was added to the spreadsheet Department of Water's requirements included but were not limited to mainline extensions (no source or storage required).
- Potential ADU's (26 units) for the 'Ele'ele service area within the residential zoned designations was added to the spreadsheet.
- The total potential maximum day demand for the 'Ele'ele service area resulted in a total pending demand of 0.0.338 mgd.

Existing Status of DOW 'Ele'ele Water System:

Current demand: 0.662 mgd
Pending demand: 0.338 mgd (See Attached Exhibit I)
Total demand: 1.000 mgd

Source Capacity 'Ele'ele: 1.15 mgd
Storage Capacity 'Ele'ele: 1.00 mgd

Available Source Capacity 'Ele'ele: 1.15 mgd – 1.00 mgd = 0.15 mgd
Available Storage Capacity 'Ele'ele: 1.00 mgd – 1.00 mgd = 0 mgd

EVALUATION

The Department of Water's policy is to provide water service (one 5/8-inch water meter) to vacant lots of record within its respective service area. In addition, the Department provides water service for an ADU provided there are no restrictions in said service zone. The Department must account for "Kaua'i Habitat for Humanity" subdivision phase II because DOW comments have been provided for said subdivision without the requirements for additional source or storage facilities.

CONCLUSION

Based on the 'Ele'ele Water System's constraints relative to source and transmission requirements, to simply look at available source and storage capacities may be misleading.

Additional source, storage facilities and transmission must be provided in order to allow full development of these future developments, unless the A&B provides the necessary documentation that the 'Ele'ele booster pumps, 27-inch transmission main and storage tanks were sized for these additional developments.

RECOMMENDATION

- 1) It was recommended that the Board not approve the applicant's request to include the Ele'ele Industrial Park Subdivision and Ele'ele Residential development site in the Ele'ele water service area and instead affirm the

Department's recommendations that was made for various land use designation, zoning amendment, and SMA(U) permit and subdivision applications that indicated that the development area is outside the service area for which the Department's General Plan for Domestic Water was prepared.

- 2) It was recommended that the Board not approve the applicant's request and to use the existing water source and storage capacity from the Department's existing water system facilities and instead require the applicant to prepare and receive Department approval for a water master plan for full development of the A&B 72-acre 'Ele'ele multi-use development that was conditioned by the various State and County agencies prior to final subdivision or building permit approvals.

Staff Testimony:

Acting Manager Ushigome stated that copies of the Boundary Amendment, Finding of Fact and Conclusion of Law, and Decision and Order were given to the Board for their information. This document required A&B to provide source, storage and transmission lines for their proposed project.

She also stated that at the last Board Meeting, the Board requested that the Department to review the Eleele Water System's capacity to see whether the Department and A&B could determine how much source A&B was asking for and how much the Department wanted to reserve for future infill growth and if the Board was contemplating a temporary allocation as a consideration. However, the Department's recommendation is still the same, as the Boundary Amendment document requires A&B to provide the source, storage, and transmission lines.

A&B Testimony:

Mr. Shigemoto stated that he questioned at the last Board Meeting on the available water source capacity, what in the Water System Standards (WSS) does the staff uses to calculate demand. Mr. Shigemoto could not find the 750 gpd figure in the WSS as all it references is 500 gpd per unit. Mr. Fujikawa stated that they use 750 gpd per unit to calculate demand . However, the WSS does require 750 gpd storage and pump capacity but not for demand. This difference is the whole crux of the matter. Mr. Shigemoto added that per their calculations there is enough water for possibly their 2 projects but at least for the industrial subdivision.

Mr. Shigemoto also stated that Mr. Fujikawa's last report does show that there is enough source capacity, with minimal to zilch in storage, which they can work around. He added that although the decision and order (D&O) by the State Land Use Commission's requirements are on record but wanted to clarify that the DO does state the conditions that were imposed: the petitioner shall provide 'the necessary' water source, storage and transmission facilities to serve the proposed project; however, they felt that there is sufficient water source.

Mr. Shigemoto discussed that they were told initially that they were out of the service; however, he believes their project is in the water service area and is they should be entitled to some water. Therefore, he asked if there is sufficient water, could they use the water or not? Also, if not, why not and what do they need to do.

Mr. Shigemoto also discussed that they could work around the storage tank issue by doing a water master plan.

Mr. D. Fujimoto stated that he has 2 issues: 1) he wanted staff to explain why they use 750 gpd, and 2) the previous Mayor had a strong desire for affordable housing in that area and his vision was to push that project in that area; therefore, he wanted to know if excess water was geared for the proposed affordable housing project.

Mr. Fujikawa stated that the criteria for the 750 gpd that is used to determine the capacity of certain things in the water system. For example, if we are trying to size a pump, the criteria that they use is that the amount of water that the pump should be able to pump should be at least be able to deliver the maximum day demand. The MDD is defined by the standards by the amount of water on the maximum day demand for that year. The WSS defines it as being a factor of 1.5 x ADD.

Mr. Fujikawa added that they are trying to define, without the benefit of a water master plan, and apply engineering calculations based on the WSS on how much of the adequacy of the source capacity for the system. Instead of using ADD like A&B perceives it to be, staff uses MDD as MDD is the criteria for determining the capacity of a source facility.

Mr. Fujikawa added that they use MDD to cover the hot summer months, otherwise the pump would be undersized. He discussed that the WSS tend to be conservative; therefore, they want to be sure that the facilities are not underdesigned so the facilities would be capable of handling high peak demands during the hot summer months.

Mr. Fujikawa discussed that for storage there are 2 criteria, one is to have enough reserve in the tanks for fire protection, because the pumps are not size for fire protection but sized for MDD to fight a fire.

Mr. D. Fujimoto stated that may be the table in the WSS needs to be revisited and adjusted. Mr. D. Fujimoto asked Mr. Fujikawa if he follows the same standards for any and all developments to establish the water demand. Mr. Fujikawa stated affirmatively.

Mr. Doi informed Mr. D. Fujimoto that there is a demand factor that would tie in the 1.5 criteria in one of the WSS tables. Mr. D. Fujimoto requested that Mr. Shigemoto be informed about that table. Staff concurred.

Mr. Shigemoto stated that there is nothing in the WSS that 750 gpd needed to be used of the demand calculations. Mr. Fujikawa added that 750 gpd is not used for demand calculations but used to calculate the capacity that requires in the system. The demand is set at 500 gpd and the 750 MDD is used as the criteria for designing the source or storage facilities. Mr. Fujikawa added that this is what a water master plan would address and determine, based on the criteria, the WMP would identify what system improvements probably would be needed for a new development to get online.

Mr. D. Fujimoto stated that we may need to clarify the WSS, especially if there is confusion of using 500 gpd or 750 gpd, as the WSS is the customer's guide to verify the feasibility of their project.

Mr. D. Fujimoto questioned if the proposed affordable housing projects were part of the source calculations. Mr. Fujikawa stated that he was not aware that the County was planning a 200 unit affordable housing project as part of the Mayor's vision. Mr. Shigemoto added that this proposed County affordable housing project would be problematic as it is definitely out of the water service area.

Mr. Shigemoto added that the WSS should reference the use of 750 gpd in its calculations.

Acting Manager Ushigome discussed that the capacity of the distribution system shall deliver MDD simultaneously with fire flow so the MDD is average x 1.5.

On query by Mr. Shigemoto on the reason for certain tables in the WSS, Acting Manager Ushigome stated that these standards were adopted statewide by all of the water departments.

On query by Mr. Costa, Mr. Shigemoto stated that he was not aware of the details of the transfer of the Hanapepe/'Ele'ele water facilities that were once McBryde's property to the DOW. This transfer happened prior to the onset of their present 2 projects that are now before the Board, as well as their 'Ele'ele Nani Subdivision.

Mr. Shigemoto added that A&B subsequently did improve the mainline that goes to Port Allen by installing 16-inch and 12-inch waterlines.

On query by Mr. D. Fujimoto, Mr. Fujikawa stated that Hanapepe has 3 wells in Hanapepe Valley and 1 well in Hanapepe Heights, which is the most recent. There are no wells in the Eleele area. As 'Ele'ele is higher than Hanapepe, the booster pump brings water from Hanapepe Valley to 'Ele'ele.

On query by Mr. D. Fujimoto, Mr. Fujikawa stated that Hanapepe's source is reliable as the wells are interoperable; however, one of the wells (Hanapepe Well No. 1) is out of service at this time.

On query by Mr. D. Fujimoto, Mr. Fujikawa stated that it is possible if another booster pump was installed at one of the wells that the source could be increased; however, would need to be sensitive to the geology of the area. Mr. D. Fujimoto added that having the redundancy of having 2 booster pump stations would increase the reliability of the system.

Acting Manager Ushigome read Page 19, Paragraph 63 of the DO for A&B's project, which stated that a new well would have to be drilled and a new tank would have to be constructed to service the property, onsite distribution and upgrade all transmissions, etc.

Acting Manager Ushigome was wondering what authority does the Board have to supersede or not to comply with the LUC decision and order. Mr. Shigemoto

responded that the Board cannot supersede the DO, as A&B would have to comply with the order. Mr. Shigemoto concurred that the document stated that A&B would need to drill a new well; however, it did not say that A&B would be fully funding that project and totally responsible.

Mr. Shigemoto added that the population projections that were in the application, based on the County's projections, it was super inflated.

Mr. Shigemoto also added that although it was stated that they would need to drill a well in the report, why would they have to do that now when it shows that there is enough water. They had concurred with the report when the project was first done many years ago if it was necessary they would do it.

Acting Manager Ushigome asked that since the Water Board cannot supersede the LUC's decision maybe the first step would be that A&B should go back to the LUC to have it clarified or to have the decision updated. Mr. Shigemoto opined that the Board would not supersede but the DOW could verify with our legal counsel.

Mr. Kawate stated that he could not make formal legal opinion but generally speaking that (*inaudible*).

Mr. Crowell stated that a condition is based on findings and he felt that an order is still an order. He referenced Page 35, Condition 13 that needed to be clarified.

Mr. Shigemoto stated that they do not want the Board to overrule or to do something different than the LUC's decision. He felt that the LUC would want them to work it out with the affected agencies.

Mr. Nishimura inquired whether the Habitat for Humanity's, Phase 2 Project was in the same area as A&B's 2 proposed projects, which would have been part of the Land Use Boundary Adjustment Application? Mr. Shigemoto concurred. Mr. Fujikawa added that Habitat did receive tentative subdivision approval and the DOW did not require source or storage. Transmission lines were the only requirement.

On query by Mr. Costa, Mr. Shigemoto stated that they do have a 60% requirement for affordable housing for the 72 acres. There were planning on using the 24 of those 72 acres for market value housing; however, Habitat approached them to purchase it. They consummated the purchase with Habitat. A&B then rezoned 28 acres; whereby, they now need to have 60% for affordable housing. Mr. Shigemoto added that they got a staff report that there is not enough water for both parcels.

On query by Mr. Costa, Mr. Shigemoto stated that the current affordable housing policy is 30%.

Mr. K. Fujimoto reminded the Board that at a couple of meetings ago, they were given a presentation on the lone existing waterline in the area that the Department is really dependent on.

Mr. Costa reminded the Board that 2 local companies, A&B and Grove Farm, have committed and provided 60% of affordable housing at a time when the County

requirement was actually 15%. Both of these companies built their affordable housing first.

As it was about 11:30 a.m. for our scheduled conference call with our consultant, an Executive Session intervened at this time.

Executive Session:

ES-2007 (12-13-07 & 2-14-08) - 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 on the matter that was noticed per the Agenda as stated above at about 11:33 a.m., seconded by Mr. Crowell.

There was no Board discussion and no public testimony. Motion was carried. Staff and guests were excused from the meeting.

The Regular Meeting was called back to order at 12:20 p.m.

Re: Request to 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, affecting a total area approximately 48 acres – (CONT'D)

Mr. Shigemoto reiterated that they are now asking for water for only their industrial project so why would they need to do a water master plan. Mr. Fujikawa stated that from a planning standpoint, they would want to see a water master plan for the entire area, including the affordable housing. They would then have a better picture on what type of water facilities would be appropriate for the area. Then the phasing of the facilities could be phased concurrently with growth in the area.

On query by Mr. Costa, Mr. Shigemoto stated that they would not return to the LUC to remove the residential portion. Mr. Shigemoto stated that they would have to do a housing water master plan first, and if they cannot work out some deal with Habitat to get credits for assisting them, A&B would have to return to the LUC and the Kaua'i County Council to reduce the 60% affordable housing requirement. He added that even if the requirement was reduced to the County's 30%, still nothing would happen.

On query by Mr. Costa, Mr. Shigemoto stated that A&B still wants to do the residential development. However, at this time, the 60% affordable housing requirement would definitely not work, just as much as drilling a well for that development would make it impossible to do.

Mr. Costa added that a water master plan would show everything that A&B wants to do.

On query by Mr. Shigemoto if Habitat could be deleted from the water master plan since they already have water, Mr. Fujikawa stated that the water master plan should include what was approved with the LUC.

Mr. Nishimura asked how come Habitat did not also have to do a water master plan. Mr. Fujikawa replied that the Mayor did come to one of our previous Board meetings to urge the previous Board members to give whatever consideration possible for affordable housing projects. Mr. D. Fujimoto stated that the Board did say then they would support affordable housing in whatever way they could.

On query by Mr. Costa, Mr. Shigemoto that since there is enough water only for their industrial project, they will only go ahead with that for now and if they have to construct a storage tank then so be it.

Mr. Shigemoto summarized that all calculations show that there is excess water now that would be able take care of their proposed industrial project and asked the Board if they all agreed that there was excess capacity, then he would request the Board to approve their request. Then if they need to provide excess storage then they would do a water master plan for the industrial subdivision to find out what type of storage they need to build.

Mr. Shigemoto added that when they apply for approval of their 28 acres, if they have to do source, storage and transmission, they would do another water master plan, which would indicate what needs to be done and whether that 28 acres is a feasible project or not.

Mr. Shigemoto discussed that at such time that County Housing does start their affordable housing project, they would probably need to do a water master plan too and they may also have a source requirement that possibly A&B could partner with them.

Acting Manager Ushigome reiterated that A&B needs to show how they will satisfy the water demand for the industrial project, multi-family residential and any subsequent partnering that they will develop, etc. She referenced the LUC again that states that they need to have the necessary water for their proposed project. She added that her recommendation still remains the same.

Mr. Shigemoto added that the LUC's 'necessary' water improvements are only applicable at the time of application and dependent on the water situation. You do the improvements if it is necessary; likewise, you do not have to do the improvements if it is not necessary. Therefore, Mr. Shigemoto felt that there is no violation as far as the LUC's decision.

Based on numbers from Mr. Fujikawa, Mr. Shigemoto made the following calculations to show that there is extra source capacity:

Current demand:	.662
Pending demand:	<u>.215</u> (using 750 gpd)
Total demand:	.877

Available source: 1.15
Total demand: - .877
Residual: .273 gpd
A&B Industrial: - .120 gpd
Residual: .153 gpd

Mr. James Hasenyager of A&B added that their consultant engineers will take care of the transmission requirement aspect, which they will design and will be shown on the construction plans. Mr. Costa added that the Department's concern would be that they would not want to impact our existing customers.

Mr. Costa added that the pending demand for additional dwelling units (ADU), etc. is not guaranteed water usage. Mr. Kyono felt comfortable that there was enough source available.

Mr. D. Fujimoto moved to approve granting A&B's application after reviewing the source calculations, as he felt that it was clear and he felt comfortable that there is sufficient source for the development, and the developer has agreed to address storage and transmission, seconded by Mr. Kyono.

Mr. Shigemoto added that by covenants, 'Ele'ele Nani I and II cannot build ADUs; both subdivisions consists of 324 lots, which was eliminated from the calculations.

Mr. Kyono stated that A&B is a local company that has been in business for a long time and a good contributor to the community and a good neighbor; therefore, he felt confident that they would not walk away from their commitment.

Mr. Kawate requested that the motion be revised to reflect only the applicant's request for source for only their industrial project.

Mr. D. Fujimoto moved to revise his motion to approve the applicants' request for industrial source only of .12 MGD per MDD source capacity, seconded by Mr. Kyono.

On query by Mr. Nishimura, Mr. D. Fujimoto concurred that the approval was for a maximum of .12 MGD allocation of source. Mr. Nishimura also questioned at what point would A&B required to do their Water Master Plan, which A&B indicated that they are willing to do. Mr. Crowell responded that would resurface when they go through the subdivision application process.

Mr. Shigemoto added that they do have an SMA permit and subdivision application with no tentative approval yet being processed in the Planning Department, which they would need to address the DOW's requirements at that time. He felt that at least it is clear that they do not have to drill for source. Mr. Nishimura added that they have a maximum of .12 MGD for source.

On query by Mr. Costa, Mr. Shigemoto concurred that it would be workable for A&B to have the requirement to do the Water Master Plan before getting final subdivision approval for their entire project. This would work out their storage and transmission issues for the subdivision.

On query by Mr. Costa, Mr. Fujikawa stated that the .12 MGD source capacity is A&B's calculations.

Motion was carried.

*Mr. Shigemoto, Mr. Yasui, and Mr. Hasenyager left the meeting at about 1:05 p.m.
Recess: 1:05 – 1:15 p.m.*

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

Mr. Kawate stated that pending further developments, it may be within the Board's decision to re-visit and re-agenda this matter for the next Board Meeting.

Ms. Esaki requested that the Board approve the additional funding to ensure that there is enough money to pay our consultant's invoice of his activities that were already done, just in case the allotted funding was not enough.

On query by Mr. Costa, Ms. Esaki stated that there was enough of the allotted funds to pay the last invoice of \$35,000; however, she was not sure of the cost of the conference call today and if there were any other miscellaneous costs. Also on query by Mr. Costa, Ms. Esaki stated that with the funds that were already budgeted, there would be a balance of about \$2,500 after the last invoice of \$35,000 was paid. As she was not sure if that amount was enough to pay our outstanding invoices, she requested that the Board approve at least additional funding of \$5,000 instead of the \$25,000 initially requested for the remaining work.

There was a lot of Board discussion on why this matter should be deferred instead and wait to see the contents and the results of our consultant's report. Ms. Esaki continued to request at least \$5,000 additional funding so she would not have to return to the Board on this matter again if there was not enough money to pay our consultant for work already executed. Ms. Esaki added that if not all of the \$5,000 were used then the unused monies would lapse into the DOW general fund. She also added that if the Board wants to further continue with their services at a later date then this matter could be brought back for Board approval.

On query by Mr. Costa, Ms. Esaki stated that the Board approved a budget of \$100,000 for this project, with about \$65,000 already spent.

Mr. Costa moved to approve \$5,000, seconded by Mr. Kyono. Mr. Nishimura voted nay. Motion was carried.

Re: Job No. 92-4, KP-01, Koloa Well F Pump Controls and Pipeline (State Well No. 5425-15), Poipu, Kauai, First Contract Amendment to revise the subdivision map

RECOMMENDATION: It was recommended that the Board approve the first contract amendment with Okahara and Associates, Inc., consultants for this project for revising the subdivision map due to the realigned blow off discharge piping.

FUNDING:

Total Funds Available, Account No. 510	\$206,000.00
Contract No. 355, Okahara & Assoc. KP-1, Job No. 92-4, Koloa Well "F" and Pipeline (State Well No. 5425-15), Poipu, Kaua'i.....	\$195,529.00
Amendment #1	<u>\$ 3,852.00</u>
Total Required	<u>\$199,362.00</u>
Balance Remaining	<u>\$ 6,638.00</u>

BACKGROUND:

The pump blow off piping was realigned outside of the well site, requiring revisions to the site subdivision map.

The project consultants, Okahara and Associates, Inc. submitted a proposal of \$3,833.00 for the necessary work, which appears reasonable.

Mr. Costa moved to approve Amendment No. 1, seconded by Mr. Kahawai; 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 end of the Agenda, seconded by Mr. Nishimura; motion was carried.

NEW BUSINESS

Re: Conveyance of Water Facility from Jonli C.H. Alo and Ann Marie Alo; for the 5/8-Inch Domestic Service Connection for Second Water Meter, TMK: (4) 4-4-09:020, Unit 2, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Jonli C.H. Alo and Ann Marie Alo, 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 5/8" Domestic Service Connection for Second Water Meter, TMK: (4) 4-4-09:020, Unit 2, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Jonli C.H. Alo and Ann Marie Alo, seconded by Mr. Kahawai; motion was carried.

Re: Grant of Easement from Jason Andrew Barth and Heather Ann Barth, husband and wife; TMK: (4) 4-3-09:037, Waipouli, Kawaihau District, Kaua'i, Hawai'i for Subdivision No. S-2006-35

It was recommended that the Board approve the grant of easement whereby Jason Andrew Barth and Heather Ann Barth, husband and wife; grant to the Board of Water Supply, County of Kauai, perpetual easement "W-1" on, over and under that certain parcel of land located at TMK: (4) 4-3-09:037, Waipouli, Kawaihau 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 Subdivision No. S-2006-35, TMK: (4) 4-3-09:037, Waipouli, Kawaihau District, Kaua'i, Hawai'i.

Further, Board approval is 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. Kahawai moved to approve the Grant of Easement from Jason Andrew Barth and Heather Ann Barth, with the indemnification provision, seconded by Mr. Kyono; motion was carried.

REPORTS

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

Mr. Costa moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures report and placed on file, seconded by Mr. Kahawai; 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 Summer hike is scheduled for July 19th, at the Alakai Swamp.

DWSRF Projects: Movement continues toward finalizing loan agreements for priority projects.

Press Release: The Press Release regarding the Energy Cost Adjustment was sent out.

Year Book: Heather, our summer intern is creating a DOW Year Book, with updated photos of all employees. The completed yearbook will be shared with Board members as well as all employees to help create a friendlier atmosphere of familiarity among all.

Project WET: The 2008 Project WET Annual Coordinators Conference was held in New Orleans, Louisiana, June 15-19, 2008. There were 57 enthusiastic coordinators, presenters and support staff in attendance. Sessions offered included, Partnering with Project Webfoot, Adding a Community Service Component to Project WET, Wa-ter You Know, Global Climate Change: A Redistribution of Water, Pre-Service Project WET Models, LSU's Pathways to Inquiry, and others. WETteam meetings and Regional meetings were conducted to take care of the business end of the organization. The conference ended with a day and a half of writing workshops to update and improve the current Project WET Curriculum and Activity Guide. This group is an intense group of conservationists, all working toward educating our youth and communities.

Make a Splash Water Festival: Plans for our 2008 MAS Water Festival are in motion. This year the festival will be held on Friday, September 26, 2008 at the park across the DOW's office. Inventory is near completion so orders can be placed to ensure we have the supplies we need. Volunteers and schools will be contacted by the end of July.

Malama Kaua'i: Met with Katie Paul and Tami Greene from Malama Kaua'i, a non-profit organization. They are creating a Green Business Program, setting criteria for businesses to qualify for different levels of being "green". They are researching what utilities are currently offering incentives for conserving, as well as ways that businesses can conserve on their own. Meeting the criteria for the different tiers of being green will earn the business the right to be noted on a "Green Map" that will be publicized for community members and visitors alike.

Mr. Kyono moved to receive the Public Relations Update and placed on file, seconded by Mr. Nishimura; 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: DOW Projects Briefing

A quarterly report of the status of the DOW's projects, along with an Executive Summary, was given to the Board for their information.

Mr. Nishimura congratulated the DOW staff on getting out about \$20-\$30 million worth of DOW projects. Acting Manager Ushigome added that they are also working on getting loans for some of the projects. She thanked the staff for working hard.

Mr. Costa requested that Acting Manager Ushigome forward a message to staff on a job well done.

Mr. Nishimura moved to receive this Projects Briefing Report, seconded by Mr. Kyono; motion was carried.

Re: Quarterly Report on Manager's Top 4 Goals for Year 2008

Recommendation: Not Applicable
Project Funding: Not Applicable

Background:

Manager's Top 4 Goals for the Year 2008:

1. Fill key departmental vacancies and improve office work area (Admin)
2. Improve internal communications-Strategic Business Plan (Admin)
3. Install AMR system (Fiscal-Special Projects-Operations)
4. Develop the Water Use and Development Plan (Water Resources & Planning)

Departmental Vacancies

Current vacancies and status of the filling the positions:

Manager and Chief Engineer The Special Manager Recruitment Committee was formed and have been meeting to work on filling this vacant position.

EM-7 Engineer
2 EM-5 Positions DOW's Engineering Division's reorganization action is completed.

Operations Staffing Position descriptions and class specifications for the Ops reorganization with DPS for review and approval.

Engineer/Planner The Department in the process of hiring a CE I.

SCADA/Electronic Tech Need to work on defining the position and finalize procuring annual maintenance contract with the SCADA system integrator.

Acting Manager Ushigome stated that the pool of applicants for engineers and inspectors are small, which makes it hard to fill positions.

Internal Communications

Improved communication remains an ongoing process and commitment.....it is an important goal and I continue to working on trying to improve open discussions and dialog with and among the staff.

AMR System

The water meter replacement project progressing approximately 6,000 meters have been replaced in the following areas: Isenberg, Wailua Houselots, Wailua Homesteads, Kapa'a Homesteads, Kalāheo, Lawa'i, 'Oma'o. Kekaha and Waimea are almost completed, crews will be headed for Hanapepe and 'Ele'ele.

Water Use and Development Plan

No progress to report. Need to finalize consultant contract and coordinate development of the plan with the State Commission of Water Resource Management (CWRM).

Mr. Kyono moved to receive the Manager's Top 4 Goals 2008 Quarterly Report, seconded by Mr. Kahawai; motion was carried.

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

CONTRACTS AWARDED BY THE MANAGER:

Re: Job No. 02-14, WK-08, WK-09, Kapa'a Homesteads 0.5 MG Tank No. 2 and Kapahi 1.0 MG Storage Tank and Connecting Pipelines and Job No. 03-03, hardening of Generator Shelters at the Makaleha Tank Site, Kapaa Homesteads, Kaua'i, Hawai'i

Funding:		\$3,590,478.00
Proposal by Kaua'i Builders, Ltd.....	\$2,909,814.21	
Contingency (approx. 5%)	<u>\$ 150,185.79</u>	
Total Funds Required		<u>\$3,060,000.00</u>
Balance Remaining		\$ 530,478.00

Re: Job No. WK-42, Phase I, 1.0 Million Gallon Stable Tank and Control Valves, Job No. WK-42, Phase II, Stable Tank Water Main, Job No. 02-18, WK-32, Phase I (Waterline D-1) Waterline along Kaehulua Road and Job No. 04-02, WK-14, Phase I, (Waterline B) Waterline along Apopo Road, Kapaa Homesteads, Kauai, Hawaii

- A. Job No. WK-42, Phase I, 1.0 Million Gallon Stable Tank and Control Valves: **Kauai Builders, Ltd. for \$3,652,656.17.**
- B. Job No. WK-42, Phase II, Stable Tank Water Main: **Earthworks Pacific, Inc. for \$1,884,960.00.**
- C. Job No. 02-18, WK-32, Phase I (Waterline D-1) Waterline along Kaehulua Road and Job No. 04-02, WK-14, Phase I, (Waterline B) Waterline along Apopo Road: **Earthworks Pacific, Inc. for \$1,483,690.00.**

FUNDING:

101. CIP, Job No. WK-42, Phase I, 1.0 Million Gallon Stable Tank and Control Valves, Job No. WK-42, Phase II, Stable Tank Water Main\$4,200,000.00

301. FRC-CIP Job No. WK-42, Phase I, 1.0 Million Gallon Stable Tank and Control Valves, Job No. WK-42, Phase II, Stable Tank Water Main.\$2,400,000.00

101b. CRP, Wailua/Kapaa, Kapaa Homesteads 6-inch Mainline Replacement\$4,600,000.00
 Total Funds Available:\$11,200,000.00
 Total Funds Available (from 1st page):\$11,200,000.00

A. Kauai Builders
 Job No. WK-42, Phase I, 1.0 Million Gallon Stable Tank and Control Valves.\$3,652,656.17
 B. Earthworks Pacific, Inc.
 Job No. WK-42, Phase II, Stable Tank Water Main.\$1,884,960.00
 C. Earthworks Pacific, Inc.
 Job No. 02-18, WK-32, Phase I (Waterline D-1) Waterline along Kaehulua Road and Job No. 04-02, WK-14, Phase I, (Waterline B) Waterline along Apopo Road.\$1,483,690.00
 Contingency, approximately 5%\$ 352,693.83
 Total Required<\$ 7,374,283.00>

Balance Remaining
 101b. CRP, Wailua/Kapaa, Kapaa Homesteads 6-inch Mainline Replacement. \$3,826,000.00

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

WAIVER, RELEASE, AND INDEMNITY AGREEMENTS SIGNED BY THE
MANAGER: None.

Affordable Housing Update: Affordable Housing Task Force (AHTF) meeting was held on Monday, June 2, 2008 at Pi'ikoi Conference Room A.

Updates on AHTF Projects:

1. DHHL – Anahola Residence Lots Unit 6, “Pi'ilani o Kekai, Phase 1: Kamuela Cobb-Adams reported that the Piilani Mai Ke Kai subdivision was granted final subdivision approval by the Planning Commission in April 2008. DHHL is currently processing the final map and is requesting TMK parcel numbers from Real Property. DHHL intends to process building permits in December 2008 and intends to complete subdivision construction water improvements in July 2008. 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 construction plans was completed by the consultant. 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 directed the DOW to approve the first fourteen of forty-one 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 are scheduled to be submitted to the Building Division in August 2008. The issuance of the certification of completion is contingent upon completion of the conveyance of the Puhi Booster Pump Station and 16-inch waterline.

On query by Mr. Kahawai on the status of the Puhi-Self Help Project, Acting Manager Ushigome stated that since the last 14 building permits were issued by the DOW, Grove Farm has not completed the conveyance and easement of the Puhi Booster Pump. Grove Farm was notified of the following outstanding punchlist items:

- a. operations and maintenance manuals that are labeled and tabbed, including a Table of Contents.
- b. provide as-builts of motor control electrical wiring diagrams, etc.
(1) various sheets needed corrections.
- c. pump tests need to be approved.

Ms. Esaki reported that she was working with Grove Farm on another project; therefore, she reminded them about the outstanding items for the Puhi 393' Booster Pump and they got word today that the punchlist items are almost done. They would also be finalizing the easement and conveyance documents.

On query by Mr. Nishimura, Acting Manager Ushigome stated that the remaining building permits may be signed if Grove Farm is working diligently to complete their punchlist items.

On query by Mr. Kyono, Acting Manager Ushigome stated that the punchlist items were outstanding since about November, 2007.

Mr. Kyono requested that Grove Farm to appear at the August Board Meeting to give the Board a status report on the outstanding punchlist items. Ms. Esaki will relay the message to Grove Farm.

4. Kaua'i Lagoons – Courtyard at Waipouli: County issued building permits. No report.
5. Kauai Lagoons – Kapule Project: Steve Busch, Kaua'i Lagoons project manager reported that the revised water demand study was completed and indicates that the 31 affordable housing units are being planned will be allocated source capacity from the existing 2-6-inch water meters that service the Marriott Hotel. DOW reported that they reviewed the revised engineering report and returned it the consultant with additional comments and recommendations. 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. The Kaua'i Lagoons Kapule LLC is responsible for this project and submitted a update report that informed the Housing Agency that contractor Armstrong Builders has started design work for 31 affordable housing units on Hoao Way in Lihue. Building permit plans and applications will be submitted on or about July 1, 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 would 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.
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. *Kukui'ula Development Company's progress update report to the AHTF dated May 1, 2008 stated that the "DOW has rejected the amended Kukui'ula 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 reviewed Water Infrastructure master plan and met with the consultant on November 7, 2007 regarding DOW review and comments for a water master plan for the Grove Farm former "Amfac/JMB Lihue Hanamaulu Master Planned Community Lands" that was submitted by Kodani & Associates. Kodani, consultant for Grove Farm water master plan did submit a revised Water Master Plan to DOW in May 2008. The DOW is currently reviewing the WMP.
9. Paanau Village, Phase 2: The affordable housing projects included in the Kukuiula Master Plan. The Housing agency voiced concern over the need to relocate and provide a separate roadway lot for the existing 12" inch mainline thru the Paanau site. The Housing agency will request that the water improvements for the Paanau Phase 2 development be reviewed by Housing during the design review and approval phase

Next meeting of the AHTF is scheduled for Monday, June 30, 2008 at the Pi'ikoi Conference Room A at 10:00AM-11AM.

Update on the County Council Request for Information:

As a follow-up to the May 14, 2008 County Council's request, the Department received a communication letter from the Council Public Works Committee to be present at its May 20, 2008 meeting. The Council's request was for the Department to provide a report on the list of projects and the water allocations that have been projected for future developments. Due to scheduling conflicts, the Department submitted a written request to the Council for a 1-month time extension to allow the Department to compile the necessary information and to have the appropriate staff available.

The Department submitted a written report to the Council's Public Works Committee on June 17, 2008. This report listed the water allocation for subdivisions and development projects which have received final subdivision approval, developments which have received land use zoning permit approvals from the County and developments that have satisfied all DOW conditions for water meter service (including the completion of necessary water system improvements). A DOW letter (with attachments) to the Council Public Works Committee dated June 16, 2008 was given to the Board for reference.

In last month's Manager's Update, I reported that the Council requested follow-up discussions with the Department regarding its list of "Pending Developments" at its June 18, 2008 Committee meeting. The information being requested from the Department is a list of "Pending Developments" for which water allocations have been identified. Also, the Department was asked to provide an explanation of the policies as it relates to the allocation of water supply and whether there is a preference and/or criteria for certain types of projects.

On June 18th, the Public Works Committee deferred the agenda item PW2008-4 until the next committee meeting on July 2, 2008. Gregg Fujikawa and I were on "stand-by" to attend the Committee meeting, however, the Council's action to defer the agenda item, in part was convenient for the Department since a Special Board meeting was scheduled for the afternoon of June 18th.

On July 2, 2008, Gregg and I attended the Council Public Works Committee meeting to answer questions relating to the Department's water allocation policies and procedures. From the gist of the discussions, the Council may be considering drafting a policy, which would either establish a timeframe or deadline for developers to complete their projects.

Also, reiterated to Council, the Department has only two service classes, general use and agricultural. Currently, there is no subsidy for affordable housing. The fundamental principle for the water rate structure is based on "cost of service" with health and safety being the primary issue.

Cost Control Commission: The County Cost Control Commission conducted a County-wide review of travel, training and overtime/accrued comp-time budgets and expenditures. The Commission requested the Department of Water's presence at their meeting on Monday, June 9th at the Council Chambers. In my absence, Paul Ganaden, Waterworks Controller attended the meeting and provided answers and clarification to the Commission's questions.

A copy of the June 10, 2008 Garden Island newspaper article on the Cost Control Commission review of the Department of Water's overtime costs is attached for your reference.

The next Cost Control Commission meeting is scheduled for July 14, 2008 at 1:00 pm at the Council Chambers. The Commission requested the Department of Water be present to provide a summary of the billing process, accounts receivable process, number of delinquent water accounts and uncollected fees. A copy of the Department of Water's response to the Cost Control Commission is attached for your review.

In addition, the Cost Control Commission requested that the Department explain whether there is a provision in our Rules, which would allow the Department of Water to terminate water service to delinquent sewer customers.

In 2005, the Board adopted a rule amendment allowing the Board and the Department of Water to terminate water service for delinquencies in the payment of County of Kaua'i sewer service charges when so directed by the County Finance Director.

Currently, the Finance Department has no mechanism to shutoff service; however, in order for this Rule to be in effect, the County Council would also have to enact a change in the sewer ordinance. Also, prior allowing or extending the Department of Water authority for sewer delinquencies, the County needs to conduct a cost of service assessment, establish criteria and develop a process to terminate water service for delinquent sewer accounts.

Mr. Kahawai 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 taken care of at the Rules Committee Meeting.

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

This matter will be taken care of at the end of this Regular Meeting.

STRATEGIC AND BUSINESS PLAN AND NEEDS ASSESSMENT

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

Re: Report from Issue Champions - Updates of Strategic Goals and Implementation Status Report:

The Issue Champions decided to submit to the Board at this meeting a more detailed lengthy quarterly report of their issues below and all of their strategies and tactics as part of the Strategic Business Plan and is on file for reference.

Issue No. 1, Morale

Issue No. 2, Strong and Qualified Workforce

Issue No. 3, Water Quality

Issue No. 4, Workplace Efficiencies

Issue No. 5, Accountability

AFFORDABLE HOUSING:

Acting Manager Ushigome reported that updated Affordable Housing Projects – Summary Status dated July 1, 2008 prepared by Mark Salmon with RW Beck was given to the Board for their review.

Mr. Salmon's memorandum was a summary of progress on the Affordable Housing Projects for your reference.

- ✓ The Kapilimao 0.5 MG Storage Tank final design is complete. County Zoning and Use permits have been obtained. Project is ready for construction contract advertisement.
- ✓ AMFAC Shaft 11 Renovation Phase 1B field pump testing is complete and the draft report is under review. Preliminary indications are that well may be under the influence of surface water. Additional water quality analysis will be conducted.

- ✓ 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. Further attempts to negotiate a price that is fair to DOW are not expected to succeed. Remaining 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.
- ✓ 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 is under staff review.

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: July '08

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

Work underway: permitting, bidding

Work ahead: construction

Current Major Area of Focus: bidding

Potential obstacles: none currently

Tentative Date Project in Service: December 2009

- Summary: All engineering work complete. All County of Kaua'i permits received. Subdivision map will be submitted and project can go to bid.
- Contract Status: Design contract executed.
- Schedule: No issues.
- Permits: All permits received.
- Land & Easements: Subdivision map to be submitted to County Planning shortly.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: No issues.

2. (KW-28), Amfac Shaft 11 Renovation-Summary Project Status: July '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: Report review

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 submitted and under review. Additional testing will be conducted to assess influence of surface water.

- Contract Status: Phase 1B contract complete. Phase 2 contract delayed pending completion of consultant procurement.
- Schedule: No issues.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Shaft water may be under the influence of surface water. Test report under review. Additional testing ahead.

3. (WK-08), Kapahi 1.0 MG Storage Tank–Summary Project Status: July '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: Appraisal of Lot 8.4 (tank location for Option 4) was rejected by Mr. Yamamoto. Alternatives are to proceed with eminent domain acquisition of the lot or construct tank on DOW property. Staff and consultants considering alternatives.
- Contract Status: Final design contract executed.
- Schedule: Construction scheduled for completion August, 2009.
- Permits: No issues.
- Land & Easements: Easement negotiations with Mr. Yamamoto continue. Latest effort unsuccessful.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Project configuration and landowner issues not yet resolved. Department must pursue acquisition of property by eminent domain.

4. (WK-09) Kapa'a Homesteads 0.5 MG Storage Tank–Summary Status Report– July '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 29th. Contract awarded in June and signatures are currently being obtained.
- Contract Status: Contract complete.
- Schedule: No issues.
- Permits: No issues.
- 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– July '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 – July’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: Right of entry is being requested from landowners on whose land access road is planned.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Ongoing alternatives investigation hampering progress. Need to work with staff to nail down final project configuration and complete EA and design.

Water Plan 2020 Program Sustainability Services:

RW Beck is scheduled to attend the August Board Meeting, both Tom Jacobs and Ann Hajnosz will be present at the meeting. RW Beck will be available to review their recommendation as presented at the July 26, 2007 Board and Staff Workshop for the WP2020 Sustainability Program and clarify what RW Beck has termed “disconnects” with the proposed Program Manager RFP. See attached.

In preparation for the upcoming Board Meeting, this is a recap to summarize some of the Board’s questions relating to the procurement of a “Program Manager” tasked with completing the WP2020 CIP implementation. RW Beck proposed adopting a programmatic approach for the implementation. This conceptual contract 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.

As proposed, the Program Manager would be responsible for managing and completing the Phase 1 projects “independently”. Initially, there would be no increase in staffing as the Program Manager would be tasked with managing the various activities and reporting to the Department of Water (DOW).

The Board stated the DOW ability to implement water improvement projects have been negatively impacted by other workload requirements, staff shortages, and difficulty in attracting and hiring additional staff. Therefore, an alternative approach needed to be considered for completing these projects.

At the August 21, 2007 Board Meeting, the Board approved the Water Plan 2020 Sustainability Program dated July 26, 2007 and instructed the Department to prepare a Request for Proposal (RFP) to contract a Program Manager to develop and implement the Water Plan 2020 Sustainability Program as described:

CIP Implementation

- Target 5 year CIP completion schedule: estimated construction cost at \$165 million for 59 projects.
- Utilize a design-build project delivery approach.
- Provide flexibility to re-prioritize projects in response to future economic conditions.
- Develop economies of scale by creating large contract areas and contract large block of “bundled” projects.
- Structure contract to assure competition, cost and schedule efficiencies.
- Develop a programmatic environmental assessment to identify and mitigate impacts on the community during construction and to achieve support from communities and regulating agencies for this program.
- Identify impacts and efforts to mitigate those impacts early
- Obtain community input and identify frame work for project requirements and design.
- Identify CIP Phase 2 activities in the fifth year of the five-year term.

Financial/ Rates

- Implement 13.5% annual water rate increase 2008 thru 2012.
- Increase Facilities Reserve Charge.
- Control and manage DOW O&M costs.

CIP Staffing

- Contract a Program Manager consultant to manage the various activities of the program.
- The Program Manager consultant would report to the Department of Water.
- Create DOW staff opportunities and maintain retention of program knowledge by structuring DOW staff to “shadow” key positions. The

program can be structured to result in these staff members transitioning into leadership roles within the program. The outside Program Manager consultant would literally work itself out of a job. The transition period should cover at least one complete cycle of Program definition, project prioritization, permit development, project controls definition, community outreach, design-build contractor procurement, and construction. Early recruitment and hiring of individuals or assignment of existing DOW staff (with recruitment and hiring of their replacement) to “shadow” the Program Manager consultant is critical.

In September 2007, the question was being raised whether RW Beck was prohibited from submitting a proposal to DOW’s RFP for a Program Manager. In an effort not to limit their involvement and not conflict themselves out of being able to offer a proposal for the Program Manager RFP, RW Beck did not develop the prioritizing and updating of the project list. Instead the Board tasked the Department to generate an updated listing of the WP2020 projects by November 2007.

The DOW Project Update Team reprioritized and updated the WP2020 projects and established the Sustainability Program’s Phase 1 and Phase 2 projects that would be included in the RFP. The updated projects list was approved by the Board at its November 2007 meeting.

The RFP projects include capital improvement, capital rehabilitation, and capital replacement projects for the 11 separate County-owned and operated water systems. These RFP projects are typically categorized within the three primary classifications which are source, storage, and transmission improvements.

Subsequently, the Department was tasked with preparing the RFP for the Program Manager for the Water Plan 2020 Sustainability Plan. In developing the RFP, the committee encountered concerns and recommended these issues be resolved prior to the issuance of the Request for Proposal. The RFP document was in its final form by February 2008, however, the concerns raised were as follows:

1. Privatization continues to be an issue and requires resolution by those beyond the Committee members.
2. Budget to hire the Program Manager and the Water Plan 2020 Sustainability Projects continues to be an issue.
3. There is a concern about the size and/or volume to be given to a single contractor. A suggestion is that a pilot project on a smaller scale be considered.
4. Questionable whether the Program Manager will be able or capable to complete the Water Plan 2020 projects in a timely manner as scheduled.
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.

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.
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.
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?

In February 2008, the Department requested a legal opinion whether the RFP for a Program Manager is in compliance with the privatization and procurement laws. And whether the DOW can retain a consultant to accomplish the Department's Water Plan 2020 Program; whereby, can the consultant perform the services normally provided by civil servants?

The simple answer was that the RFP concept as proposed by RW Beck and approved by the Board was not in compliance with the State's privatization laws.

Based on the discrepancies and disconnects of the WP2020 Sustainability Plan as presented by RW Beck in July 2007, the Board requested RW Beck clarify and explain why the "Program Manager" concept they proposed was not in compliance and consistent with the privatization and procurement laws?

The Department met with RW Beck on April 2008 and requested clarification of RW Beck's recommended approach for a Program Manager model. In addition, discuss/explain the procurement and feasibility of utilizing a Program Manager concept in Hawai'i.

RW Beck prepared a memorandum dated April 17, 2007 to follow up on discussions, questions and concerns expressed by the Department's staff. Contrary to our discussion and request, RW Beck did not reference or utilize their July 2007 Sustainability Plan presentation as the basis of explaining the "disconnect". Instead Tom Jacobs references a draft proposal dated December 2006, which was not the WP2020 Sustainability Plan structure the Board approved in August 2007.

This is a brief summary to refresh our memories prior to next month's discussion with RW Beck. If you have any corrections, additions or questions, please let me know.

We wish to thank RW Beck for graciously agreeing to come and meet with the Board to assist with addressing any concerns, questions, and "disconnects" plaguing implementation of the WP2020 Sustainability Program.

Mr. Nishimura requested a copy of the RFP for the Sustainability Plan, along with its amendments, to be included in the next Board agenda packet. It was so noted.

Mr. Costa moved to receive the reports and placed on file, seconded by Mr. Kyono; motion was carried.

EXECUTIVE SESSION:

ES-2007 (12-13-07 & 2-14-08) - 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.

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 Executive Session, Old Business No. J2, ES-2008-4, Opaekaa Gardens (Garfinkle) and to receive for the record for Old Business No. J3, A&B Properties, Inc., seconded by Mr. Kyono; motion was carried.

Mr. Nishimura moved to go into Executive Session at about 2:00 p.m. for agenda items that were noticed under Executive Session, Old Business Nos. J6, Koloa 1.0 MG Tank Site and J5, ES-2008-8 in that order, seconded by Mr. Kahawai.

There was no Board discussion and no public testimony. Motion was carried. Staff was excused from the meeting.

The Regular Meeting was called back to order at 2:35 p.m. (Hereafter, only Board members and Mr. Kawate were present at the meeting.)

REPORTS

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

Mr. Kawate reported on behalf of the Special Manager Recruitment Committee and recommended that the full Board empower the Committee to move forward with a personal services contract, which shall include but not limited to drafting the position description, compiling the benefits package, draft the RFP, to advertise, conduct

interviews, and to report to the Board and to get Board approval of the selected individual.

Mr. Costa moved to approve to empower the Special Manager Recruitment Committee to implement their recommendations, seconded by Mr. Kyono; motion was carried.

Special Manager Recruitment Committee Member Mr. Nishimura requested that a followup Special Board Meeting be scheduled and posted for Tuesday, July 22, 2008 to followup on the duties that the Board empowered the Committee to do. (*Note: Meeting was re-scheduled to Tuesday, July 29, 2008*)

Mr. Kahawai moved to approve to schedule a Special Board Meeting, seconded by Mr. Nishimura; motion was carried.

ADJOURNMENT:

There being no further business, the meeting was duly adjourned at 2:45 p.m.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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