

SPECIAL BOARD MEETING MINUTES
BOARD OF WATER SUPPLY
Tuesday, July 29, 2008

The Board of Water Supply, County of Kaua'i, met in special meeting at its office in Lihu'e on Tuesday, July 29, 2008. Chairperson Roy Oyama called the meeting to order at 9:15 a.m. On roll call, the following answered present:

BOARD: Mr. Roy Oyama, Chairperson
Mr. Ian Costa
Mr. Dee Crowell
Mr. Leland Kahawai
Mr. Randall Nishimura

Absent & Excused: Mr. Donald Fujimoto
Mr. Steven Kyono

STAFF: Ms. Wynne M. Ushigome (left meeting at about 10:10 a.m.)
Ms. Amy Esaki (left meeting at about 10:10 a.m.)
First Deputy County Attorney Harrison Kawate

AGENDA

Mr. Nishimura moved to approve the Agenda, seconded by Mr. Kahawai; motion was carried.

EXECUTIVE SESSION

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

Mr. Crowell moved to go into Executive Session as noticed on the Agenda at about 9:15 a.m., seconded by Mr. Nishimura.

There was no Board discussion and no public testimony. Motion was carried

The Regular Meeting was called back to order at 9:58 a.m.

Re: Request Board Approval for 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 recommended that this Agenda Item No. 4 be deferred.

Mr. Costa moved to defer Agenda Item No. 4, seconded by Mr. Kahawai; motion was carried.

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

Acting Manager Ushigome asked for clarification of the Board's approval granting A&B Properties source capacity at the July 15, 2008 Board Meeting.

On query by Mr. Nishimura, Mr. Kawate explained the reconsideration process that even though this is not on the Agenda, a Motion by the Board can be made in order to receive clarification and reconsideration of the Board's motion at the previous July 15, 2008 Board Meeting. If there is a motion and a second, it would then be deferred to the next Board Meeting. This matter would then be on the next Regular Meeting Agenda at which time the Board could then officially act on this matter. The person who makes the motion for reconsideration would need to be someone that voted in the affirmative, on the prevailing side; the second need not be on the prevailing side. However, this matter could not be acted on today, as it needed to be properly on the Agenda at the next Board Meeting. At the next Board Meeting, the parameters of this request could be established.

Acting Manager Ushigome explained that the Department is requesting for the Board's reconsideration on the Board's motion to clarify what provision the Board had intended when they approved the source capacity of .12 MGD. There are some details to be clarified like what are the consequences if A&B exceeds the .12 MGD source allocation. Will there be a limit on their development at that point? What did the Board intend?

Mr. Crowell requested that there needed to be a written report to explain what the Department is asking and that the applicant should also be notified.

Mr. Costa moved to reconsider the A&B agenda item for discussion and clarification, seconded by Mr. Kahawai; motion was carried.

Mr. Kawate explained that once this matter is posted for the next Board Meeting, the Board could then debate the issue on whether or not they wanted to reconsider this issue at the next Board Meeting.

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

Recess: 10:10 a.m. to 10:12 a.m. Acting Manager Ushigome and Ms. Esaki were excused from the meeting at this time.

EXECUTIVE SESSION

ES-2008-8 (6-05-08) – Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(2)(4)(6)(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 go into Executive Session as noticed on the Agenda at about 10:12 a.m., seconded by Mr. Nishimura.

There was no Board discussion and no public testimony. Motion was carried

The Regular Meeting was called back to order at 10:20 a.m.

Re: Sub Committee of the Whole Requests Board Approval Regarding Proposed Employment Parameters and/or Process Regarding Proposed Special Manager and/or Supervisor and/or Developmental Supervisor for Department Of Water and/or Water Plan 2020

Mr. Costa moved to authorize the Special Manager Recruitment Committee to proceed with a personal services contract, seconded by Mr. Crowell; motion was carried.

ADJOURNMENT:

There being no further business, Mr. Costa moved to adjourn the meeting at about 10:22 a.m., seconded by Mr. Crowell; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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