

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Friday, July 20, 2012

The Board of Water Supply, County of Kaua'i, met in regular meeting at the Board Conference Room in Lihu'e on Friday, July 20, 2012. Chairperson Daryl Kaneshiro called the meeting to order at 10:20 a.m. On roll call, the following answered present:

BOARD: Mr. Daryl Kaneshiro, Chairperson
Mr. Randall Nishimura
Mr. Raymond McCormick
Mr. Clyde Nakaya
Mr. Michael Dahilig
Mr. Larry Dill

ABSENT/EXCUSED: Mr. Roy Oyama

Quorum was achieved with 6 members present at the time of roll call.

STAFF: Mr. David Craddick
Mr. William Eddy
Mr. Val Reyna
Ms. Fay Tateishi
Mr. Aaron Zambo
Ms. Joy Buccat
Mr. Gregg Fujikawa
Ms. Sandi Nadatani-Mendez
Deputy County Attorney Andrea Suzuki

GUESTS: Mr. Greg Allen, Kapa`a Highlands
Mr. Max Graham, Kapa`a Highlands, Allen Family LLC
Ms. Joanne Allen, Kapa`a Highlands
Mr. Barry Simmons, Oasis Water Systems

ACCEPTANCE OF AGENDA:

Mr. Nishimura moved to accept the agenda as circulated, seconded by Mr. Dahilig.
Mr. Nishimura moved to amend the agenda date from, "Thursday," to "Friday, July 20, 2012," seconded by Mr. Dill. With no objections to this amendment, motion was carried with 6 ayes.

Chair Kaneshiro and Deputy County Attorney Andrea Suzuki called for a roll call.

Board Member, Mr. Nishimura
Board Member, Mr. McCormick
Board Member, Mr. Nakaya
Board Member, Mr. Dahilig
Board Member, Mr. Dill

Chair, Mr. Kaneshiro

At this time, 6 board members answered present to roll call.

MINUTES:

Review and approval of:

Regular Board Meeting – June 28, 2012

Acting Private Secretary Mary-jane Garasi noted for Board Chair, Kaneshiro to amend the minutes to reflect correction on page 12 No. 2 to state, “Part 4 Section III.”

Mr Nishimura moved to approve Regular Board Meeting minutes dated June 28, 2012 as amended, seconded by Mr. McCormick, with no objections; motion was carried with 6 ayes.

Review & Receive Executive Session Transcript:

- Executive Session –
- a. December 8, 2011
 - b. December 15, 2011
 - c. December 22, 2011
 - i. Session 1
 - ii. Session 2
 - d. January 5, 2012
 - e. January 23, 2012
 - f. January 26, 2012
 - g. March 22, 2012
 - i. Session 1
 - ii. Session 2
 - iii. Session 4
 - h. May 24, 2012

Mr. Nishimura moved to receive Executive Session transcripts dated for December 8, 15, 22, Sessions 1 and 2 2011; January 5, 23, 26, 2012; March 22 Session 1, 2, 4, and May 24, 2012, along with the voice recordings, seconded by Mr. Nakaya, with no objections motion was carried with 6 ayes.

CORRESPONDENCE/ANNOUNCEMENTS

No correspondence was presented at this meeting.

Chair Kaneshiro announced the Kaua’i Board of Water Supply will be holding a Public Hearing on Tuesday, August 21, 2012 at 6 p.m.

BOARD COMMITTEE REPORTS

Report of the Rules Committee of the Kaua’i County Board of Water Supply

- a. Impact Fees and FRC Proposed Rule

Rules Committee Chair Dahilig reported that the rules committee was scheduled to meet on Tuesday, July 17, 2012, but cancelled. A report will be appropriately disseminated when a date can be further scheduled.

Mr. Nishimura moved to approve the report of the Rules Committee, seconded by Mr. Dill; by a unanimous vote, motion was carried with 6 ayes.

OLD BUSINESS

Re: *Manager's Report No. 12-71(revised)- Revision of Board Policy No. 22 concerning change order threshold update*

Manager Craddick explained that No. 6 and No. 7 has been dropped and the minimum threshold amount decreased from \$25,000 to \$20,000.

DISCUSSION:

Mr. Nishimura pointed out two issues. The current policy is not being followed. The 5% contingency that is on the total contract amount should mean that the budget for that particular project be reduced once the contract is signed and that subsequent change order be subject to that 5% contingency. It is recommended that the staff looks at the overall policy to come up with revisions that are accurately reflecting what is being done, whereas the 10% that is being created should be approached in a different manner.

Mr. Nishimura moved to defer indefinitely. *Manager's Report No. 12-71(revised) - Revision of Board Policy No. 22 concerning change order threshold update*, seconded by Mr. McCormick; with no objections, motion was carried with 6 ayes.

NEW BUSINESS

Re: *Manager's Report No. 13 – 1 – Manager's recommendation regarding correspondence from Kapa`a Highlands Subdivision Planning Commission Subdivision No. S-99-45*

Chair Kaneshiro recused himself from this agenda item and turned over the meeting to Vice Chair, Mr. Nakaya.

Mr. Nishimura moved to receive *Manager's Report No. 13 – 1 – Manager's recommendation regarding correspondence from Kapaa Highlands Subdivision Planning Commission Subdivision No. S-99-45* for the record, seconded by Mr. Dahilig, with no objections; motion was carried with 5 ayes.

DISCUSSION:

Manager Craddick gave the board a little background on the proposal and his recommendation.

BACKGROUND: This project was presented to the Board a few months back and approved with the understanding there would be additional Affordable Housing provided that made this project unique. The Mayor's office and housing were also consulted and felt that the affordable

housing aspect was something the County had in its community plans and would be approved when the time came.

Subsequent to that approval the developer was unable to get state rezoning for reasons we are unaware of. Manager Craddick believes this project is not meeting the spirit of the original Board approval and could not accept the revised proposal without Board concurrence.

The developer has asked for changes from the original proposal which was to provide excess source for storage on a dollar for dollar basis and given priority treatment based on the prospect of providing what we believed was affordable housing above the minimum affordable housing required of every other developer. The developer also wants approval for an agricultural subdivision that they plan to CPR whether the affordable housing moves forward or not. If it does move forward, they do not want to provide any more affordable housing than what is required by the county ordinance.

The developer also wants to provide source and pay the DOW pro-rata cost for existing storage and proposed storage subject to the DOW completing its storage project.

There are a number of projects waiting for the additional source and storage. The project before you has the ability to use most of the available storage by providing source only. In approving this we would in essence be setting aside most of the available and proposed storage for a developer that is being allowed to jump ahead of other developers that have the same requirements we have given this developer.

Should the Board decide the project is approvable on some basis it should not be allowed on a pro rata cost basis as existing and future storage involves land costs and a lengthy pipeline not included in the existing and proposed tank cost to bring the water into the system.

These additional cost factors result from land costs associated with the extra storage that is not on DOW land. Any new storage project would have a mile long transmission pipeline to connect to the system. Both these land matters will require condemnation of the land. These costs are not part of the current project cost that they are requesting to pay a pro-rata share of. Any pro-rata costs should include replacement land costs and pipeline to connect this tank to the system in the cost factor.

Mr. Graham testified to the board to represent the applicant Principal Greg Allen for the Allen Family LLC.

This started out as an agricultural subdivision with 12 ag lots and a couple of road way and remnant lots. The lots located in the area which covers lots 6-12 are also part of the general plan urban center land classification under the Kaua'i County's general plan. As a result, with the encouragement of the County, the applicant is proceeding with the plan to develop that area as a residential project. In order to do that, Greg Allen needs to have the State Land Use Commission district change from the agriculture district to the urban district. This is in the process now and when that is approved, he would have to obtain the planning commission to review and the

County Councils' approval of the zoning change to residential. The state land use commission has not abandoned their attempt to get the LUC approval.

Mr. Allen explained about the status of the land use application. He stated that the draft EA is completed which have taken two years of revision from the staff and was submitted this week by Peter Young to the new administrator and staff at the LUC. An e-mail was sent to Mr. Allen stating the LUC was pleased with the progress that has been made and they recommended that the DEA "Draft Environmental Assessment" be sent to 8 agencies. Peter Young's meeting with the Executive Director and the staff at the LUC was held yesterday and Mr. Allen explained that his staff is following up on LUC's direction to provide copies of the draft EA to state and county agencies prior from draft going to OEQC for a formal submission. The LUC executive director and planner were appreciative and positive about the steps that have been taken. Steps that has been taken were a traffic study which Mr. McCormick was given, an agricultural sustainability historic SHPD, and all the different studies to get to an EIS. The statement that was given about the developer being "unable" to get state rezoning is absolutely wrong, but in fact happy about the progress that is being made.

Mr. Graham noted that there is a time pressure which is driving this request. The proposal essentially is to provide a new well at no cost to the department which will provide a new source of water for the Kapa'a system at the applicant's expense. If the residential project eventually gets approved that would provide the required 30% affordable housing. It's a moderate income housing project that meets the housing requirements of Kaua'i residents. The pluses accepting the agreement would be that the county would get a new well water source and promote the chances that this moderate income housing would be completed. The downside for the County if that if the ag subdivision is approved and if the well didn't function as it should, there would be no water immediately available and pursuant to the agreement as long as there is no water available there will be no development. It would be an ag subdivision with no development.

Mr. Allen explained that the department has two tanks that support this project. One is a 214 and the other is a 313 foot tank. 95% of the project including all the urban housing area will work off the existing 214 foot tank. The only area that would require pressure off the 313 foot tank is 5 agriculture lots which have been previously tentatively approved. The 214 foot tank storage number was at 2 million and Stables is 1 million. The 2008 use was 2.4 million gallons and pending uses of coco palms for 159,000 gallons. The max figure balance in the 214 Tank is 344,000 gallons. The 214 tank has not been more than half full which at the last meeting; it has been told that it was full, but staff has said it has not been full. In 10 years, when the project is completely built out, it would use around 480,000 gallons which in the max capacity would not work. This proposal would come up with -150,000 gallons out of the 214 Tank, but 313 Tank would only provide 5% of the water needed. If the Ornellas 1MG Tank and the Kulono .25MG Tank is included in the next 10 years, the department ends up with a positive 872,000 gallons on a max day. The 872,000 minus the -150,000 gallons would leave the department with a positive number. The bottom line is 69% of the water for the project is available right now just off the 214 Tank. The project is on track and the department needs the source. When the water flowing out of the low income tank is pumping hard, the chlorides go through the roof. The test of this new development of this well is expected perform during this first 5 ag lots, if it fails, the agreement voids and no development of urban housing will be done.

A year ago, there was a dollar for dollar recommendation from staff, which resulted to an 8 to 1 ratio from source to the department's storage. The Ornellas Tank provides 5% of the water for the subdivision. In the end, this proposal was changed. Everything that has been done in the last 5-6 years is on the line on this deal. Water is an important aspect that Allen LLC and department's staff are trying to work with and this proposal should be approved for the goodness of the people of Kaua'i.

Mr. Nishimura questioned to why Mr. Allen cannot live with the standard requirements that the department currently has. Mr. Allen explained there is not a convenient place to get the additional storage and the additional storage facilities are already on the department's side of the equation. The well that was dug was a lucky deal which has come to a decision to trade. It wouldn't make sense to build another tank to put another pipe down the road.

Mr. Allen explained to Mr. Nishimura that the hold up on the water department has been up for over four years. Mr. Graham also explained that the proposed modification with the department to trade for a well site to satisfy the source and storage requirements needed to be put into an agreement. The staff has not been able to come to an agreement.

Manager Craddick clarified that in this case the department has always asked for the client to provide source and storage and it is taking a large percentage of the available storage and to be built storage. The proposal to be agreed on is that they are not providing any more affordable housing that what is required so there is nothing really unique for this project. This raises the question to give others the option. This is mainly a timing issue, but regarding the department's liability should the department proceed?

Mr. Dill was concerned about the other projects that are in line for developed storage. Mr. Dill questioned Manager Craddick if the department has known of anyone else who is moving forward. Manager Craddick explained that the department has always asked for source and storage so there would be no reason to contact prior proposals. If the board decides to change those requirements, would there be liability issues for the department?

Mr. Dahilig stated that general obligation as board members are to provide and preserve and maintain the integrity of the public water system and motioned to move to executive session with invitations to Manager Craddick and the Chief of Water Resources & Planning, Mr. Fujikawa to assist the Deputy County Attorney Andrea Suzuki to render legal advice as it pertains to this item, seconded by Mr. Nishimura; with no objections, motion was carried with 5 ayes.

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

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

At this time, 5 board members answered Aye to the roll call vote.

At 10:55 a.m. Vice Chair, Nakaya has called the Regular Meeting into a recess, while the Board convened into an executive session.

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

At 11:41, Vice Chair, Nakaya reconvened the Regular Meeting back into session.

Mr. Dahilig moved to defer *Manager's Report No. 13 – 1* – Manager's recommendation regarding correspondence from Kapa`a Highlands Subdivision Planning Commission Subdivision

No. S-99-45 to the end of the agenda and for the board to set a date to reconvene within four business days from today, seconded by Mr. Dill; by a unanimous vote, motion was carried with 5 ayes.

At 11:45, Chair Kaneshiro reconvened the Regular Meeting.

STAFF REPORTS

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

Mr. Dahilig moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures, seconded by Mr. Nishimura; by a unanimous vote, motion was carried with 6 ayes.

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

Ms. Buccat announced that tomorrow will be the DOW Omao Ranch Day at the Kaneshiro Ranch. All board members and families are welcome to join. Everyone will be bringing their own lunch.

Ms. Buccat also announced that the 9th Annual Make a Splash Event is being held on Thursday, September 27, 2012. Mr. Dill encouraged all board members to volunteer. Mr. Nishimura offered ice to the department for the Annual Make a Splash Event.

Mr. Nakaya moved to receive the Report by the Public Relations Specialist on Public Relations Activities, seconded by Mr. Dill; by a unanimous vote, motion was carried with 6 ayes.

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

Mr. Reyna announced that the highlight for this report is the vehicle replacement report. This fiscal year there is one vehicle up for replacement. Next fiscal year, there will be four vehicles scheduled for replacement.

Mr. Nishimura questioned Mr. Reyna on the source & storage points regarding the sanitary survey on the on-going corrective actions. Mr. Reyna explained that these are regular inspections performed by the Department of Health and the EPA. They inspect the remote sites and are scheduled to inspect one subsystem per visit and would last one or two days depending on the remote sites in the subsystem to ensure that the department are up to standards and that the water that is distributed to our consumers are safe for consumption.

Mr. Reyna explained to Mr. Dill that the past practice the department has followed regarding the life of a car is either 7 years or over 100,000 miles either or depending on the usage of the vehicle. Vehicles that are over 7 years and over 100,000 miles that are still running don't necessarily get replaced, these vehicles are kept for the department to continue to use until a maintenance issue arises.

Mr. Nishimura moved to receive the Chief of Operation's Summary Report on Monthly Operational Maintenance, seconded by Mr. Dahilig; by a unanimous vote, motion was carried with 6 ayes.

Re: Water Resources and Planning Subdivision Report

Mr. Dahilig moved to receive the Water Resources and Planning Subdivision Report, seconded by Mr. Nishimura; by a unanimous vote, motion was carried with 6 ayes.

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

The board has requested the Manger to report the Goals for the Manager on the next month's board meeting.

Mr. Nishimura moved to receive the Manager's Monthly Update Regarding Activities of Note of the Kaua'i County Water Department seconded by Mr. McCormick; by a unanimous vote, motion was carried with 6 ayes.

BOARD MEMBER REPORTS on AWWA training:

1. Randall Nishimura

Mr. Nishimura pointed out that a report was given to all board members and staff. Sandi Nadatani-Mendez made a good comment about the presentation of the food network as opposed to running a water utility company which is an excellent educational presentation for all the division heads, staff, and everyone to view. It was informative and entertaining and Mr. Nishimura recommended Manager Craddick to set aside some time for his staff to view the power point presentation.

2. Larry Dill

Mr. Dill gave a verbal report on his training in Dallas and thanked both the board and the staff in attending this training. Mr. Dill attended numerous workshops like rate making, scada systems, the latest technologies, and keeping up with infrastructure needs. Mr. Dill expressed his appreciation that Mayor Carvalho was able to attend and enhance his familiarity and understanding with the challenges the department is facing.

Mr. Dahilig moved to receive both Mr. Nishimura and Mr. Dill's report on the AWWA training, seconded by Mr. Mr. Nakaya; by a unanimous vote, motion was carried with 6 ayes.

Mr. Dahilig leaves at 11:59 a.m.

QUARTERLY

1. Project Status Update
2. Affordable Housing Update

Deputy Manager Bill Eddy explained the graph presented to the board. The current rate the department spent about \$28M and the department has \$32M to spend. The department's encumbrance of showing contracted funds shows approximately \$18M remained and encumbered about \$42M this time. The department is well on the way to meet the required encumbered. Two tanks are nearly ready to be put out to bid, so all of the encumbered BAB funds will be encumbered by the end of this year.

Mr. Nishimura requested for Mr. Moises to double check the Project Status Update. There should have been a few projects that should have been completed.

Mr. Nishimura moved to receive the Affordable Housing Quarterly Update and for the staff to resubmit the Project Status Quarterly Update and defer to the next month's meeting, seconded by Mr. Nakaya, by a unanimous vote; motion was carried with 5 ayes.

Chair Kaneshiro requested for the board to rearrange the agenda and to move the Agenda Item J. Executive Session to the end of the Regular Board Meeting.

TOPICS FOR NEXT WATER BOARD MEETING

1. Resolution No. 13-1 – Budget for 2013 (*August 2012*)
2. Draft Rule Change for Qualifications for Agriculture charges and rates in Part 4 Section III of the Rules (*August 2012*)
3. Public Hearing for Part II Rule - Leak Rebate Cancellation (*August 2012*)
4. Public Hearing for Part III Rule- Establishing Standards for Subdivision Water Systems (*August 2012*)
5. Manager's Goals
6. Amend BAB Project List
7. Employee Morale

TOPICS FOR FUTURE WATER BOARD MEETINGS

1. Job Performance Evaluation for Manager and Chief Engineer
2. Amend Budget (12/13) \$40K to contract consultant for FRC payments received

UPCOMING EVENTS

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

Big Island Board of Water suggested one Kaua'i board member to attend

NEXT WATER BOARD MEETING

1. Thursday, August 23, 2012, 10:00 a.m.
2. Thursday, September 20, 2012, 10:00 a.m.
3. Thursday, October 25, 2012, 10:00 a.m.
4. **Wednesday**, November 21, 2012, 10:00 a.m.
5. Thursday, December 27, 2012, 10:00 a.m.

The changes to the Waterboard Meetings have been updated as follows:

1. **Tuesday**, August 21, 2012, **2:00 p.m.**
2. Thursday, September 20, 2012, 10:00 a.m.
3. Thursday, October 25, 2012, 10:00 a.m.
4. Thursday, November 29, 2012, 10:00 a.m.
5. Thursday, December 27, 2012, 10:00 a.m.

At 12:20 p.m. Chair Kaneshiro called for the Regular Meeting to recess while the Board convened into an executive session.

EXECUTIVE SESSION

Pursuant to H.R.S. §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a).

1. *Pursuant to Haw. Rev. Stat §§92-4 and 92-5(a)(2), the purpose of this executive session is to receive and review correspondence from the Department of Water's Manager and Chief Engineer as requested by the Board. This deliberation involves matters affecting the privacy of the Manager and Chief Engineer. If the individual concerned requests an open meeting, an open meeting shall be held.*

At 12:25 Chair Kaneshiro moved for the Regular Meeting back into session.

RECESS

Mr. Nishimura moved to recess the Regular Board Meeting to Monday, July 23, 2012 at 4 p.m., at the Department of Water Board Conference Room, seconded by Mr. McCormick, with a unanimous vote; motion was carried with 5 ayes.

Respectfully Submitted,



Mary-jane Garasi
Acting Private Secretary

Approved,



Randall Nishimura
Secretary -- Board of Water Supply