

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, June 5, 2008

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, June 5, 2008. Vice Chairperson Leland Kahawai called the meeting to order at 10:13 a.m. On roll call, the following answered present:

BOARD: Mr. Leland Kahawai, Vice Chairperson
Mr. Ian Costa
Mr. Dee Crowell
Mr. Donald Fujimoto (left at about 12 noon)
Mr. Steven Kyono
Mr. Randall Nishimura

Absent & Excused: Chair Roy Oyama

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 10:30 a.m.)
Mr. Benjamin Garfinkle, Developer (left meeting at about 11:18 am.)
Mr. Ben Wellborn, Mr. Garfinkle's consultant (left meeting at about 11:18 am.)
Mr. Max Graham, Legal Counsel (left meeting at about 11:18am.)
Mr. Tom Shigemoto, A&B Properties (left at about 1:10 p.m.)
Mr. Dan Yasui, A&B Properties (left at about 1:10 p.m.)

AGENDA

Mr. Kyono moved to approve the Agenda, seconded by Mr. Costa; motion was carried.

MINUTES

Public Hearing: Thursday, May 8, 2008

Mr. Crowell moved to approve to receive the Public Hearing minutes of Thursday, May 8, 2008 and place on file, seconded by Mr. Nishimura; motion was carried.

Regular Meeting: Thursday, May 8, 2008

Mr. Crowell moved to approve to receive the Regular Meeting minutes of the Thursday, May 8, 2008 Meeting and place on file, seconded by Mr. Nishimura; motion was carried.

CORRESPONDENCE:

Re: SB3105, SD, A Bill for an Act Relating to Public Agency Meetings (Act 20) was Signed into Law on April 18, 2008

Re: Office of Information Practices (OIP) OpenLine Newsletter, May 2008 Issue – Recent Court Cases

Re: Hawai'i State Ethics Commission May, 2008 Newsletter No. 2008-2

Mr. Nishimura moved to accept the above Correspondence and place on file, seconded by Mr. Kyono; motion was carried.

OLD BUSINESS

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

Mr. Lindsay Crawford of Kukui'ula Development Company (Hawai'i) LLC was 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.

Mr. Crawford reported that the new manufactured pump shafts for Piwai Well No. 3 was shipped to O'ahu on June 4, 2008 and shipped to Kaua'i on June 9, 2008. The shafts will then be installed and expected to be started up on about June 13 or 14, 2008.

Mr. Crawford also reported that subsequent to the last Board Meeting, the contractor began grading the individual lots within the subdivision. In order to grade the lots, blasting was required by the contractor to remove the rocks. The blasting activities resulted in a small leak in the waterline near Lots 44/45. The leak has been fixed and the waterlines were pressure tested and chlorinated. The test results are expected back next week.

Mr. Crawford shared that they may be still doing some blasting after the fact for Subdivision Y, in the green belt areas between the lots. He added that if the DOW would want them to pressure test the lines again, they would be happy to do that.

Then lastly for Subdivision M1/M4, they chlorinated today all of the western bypass road areas in the public roads and the portion of the major project roads' waterlines, specifically the 245' pressure zone waterline. They also have recently chlorinated the 366' pressure zone waterline and still waiting for the test results next week. Thereafter, they will work their way through M1/M4 and up to the Manuhonuhonu Tanks and back down.

Mr. Crawford estimated that the chlorination of the waterlines would be all completed by mid-July, 2008, so their main concern is completing Piwai Well No. 3.

On query by Mr. Crowell, Mr. Inouye stated that for Piwai Well No. 3, they would still need to: 1) test their equipment and controls; and 2) conduct the pump efficiency test.

Mr. Nishimura questioned that because of the build-out time frame, there was a concern of stagnant water once the waterlines are conveyed to the DOW. Mr. Inouye stated that to remedy that situation, temporary hydrant meters would be installed at the end of the lines and the lines would be periodically flushed. Mr. Crawford stated that it was also Acting Manager Ushigome's concern; therefore, they have been working jointly with the DOW on resolving this matter.

Mr. Crawford left the meeting at about 10:30 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. Benjamin Garfinkle, Mr. Ben Wellborn, Consultant, Mr. Max Graham, Legal Counsel, and Mr. Tom Nance, Consultant were present for this agenda item.

Acting Manager Ushigome reported that a legal opinion is still pending from the County Attorney's Office on what authority does the Department of Water have with private water systems and that the applicant submitted additional information.

Acting Manager Ushigome summarized that the applicant's initial request was to have their 3 lots consolidated and re-subdivided into 3 lots. Initially, each lot had 2 meters and in December, 2007, the applicant came before the Board and one of the meters for Lot 2 was reallocated to Lot 1 and the second meter was reallocated to Lot 3; which left Lot 2 without water meters. The developers proposed to service Lot 2 with a private water system. Then the question became whether that private water system has to be built to County standards that is why they returned to the Board for clarification.

Testimony:

Mr. Graham testified that he is representing the developer, who had done a 3-lot boundary adjustment. There were at this meeting to clarify the Board's previous motion of December 13, 2007. Mr. Graham submitted for the Board's reference what they felt was the DOW's position at the December 13, 2007 Board Meeting using the DOW's internal subdivision report. On that same form, he submitted a revised subdivision report that reflected the applicant's revision request. He added that the crux of the clarification is if County standards did apply for the private water system for Lot 2.

Mr. Graham summarized that Lot 1 and 3 both have 3 County water meters each. Both lots will have deed restrictions that there will be no further development until the County water system is further developed to allow for additional density.

Mr. Graham stated that Lot 2 has an insufficient water supply; therefore, the applicant proposed to do a private water system and their understanding was that it was approved as long as the private water system would meet the capacity and fire flow requirements of the DOW. However, the DOW's subdivision report contains a recommendation that the private water system needed to meet the standards of a public water system.

Mr. Graham stated that they felt that the County standards do not apply to private water systems. He understood that the County subdivision ordinance stated that a subdivision needed to meet the DOW's standards, which are standards for connections to the public water system only.

Mr. Graham added that Part 3, Section II, Paragraph 2, Availability of Water and Approval of Subdivision Map, is the only section in our Rules that reference private water systems. Mr. Graham also added that he knows that it was not a past requirement that private water systems needed to meet County standards.

Mr. Graham stated that the applicant is requesting to only meet the applicable water storage and fire flow standards. He added that at the Board's request, he has written into the deed restrictions for Lot 2 that Lot 2's owner would have to execute and record a Waiver and Release Agreement that would provide that the owner would indemnify, release and defend and hold the DOW and the County harmless from the fact that the subdivision was approved without County water service. The private water system on Lot 2 would meet the capacity and fire flow standards and that the water system would not be offered for dedication unless and until it met all of the applicable County standards for public water systems.

Mr. Graham added that this clause would protect the DOW against any attempts to have that water system dedicated if it did not meet the public water system standards.

On query by Mr. D. Fujimoto, Acting Manager Ushigome stated that this stipulation was made for Lot 2 based on the subdivision ordinance, as this project went through the subdivision process. Also, that this project was not governed by the Department of Health as it was under the threshold of having 15 water service connections or 25 people.

Mr. Nishimura summarized that he would want the applicant to give the Board a summary of their request in one concise report with their justifications on their variance request. Each one of their requests should be listed and stated whether it was already addressed and agreed upon; and if not, state exactly what is being requested. For example, Mr. Nishimura stated that if the applicant is asking for a relief from the standards in general, state why should the Board consider it?

Mr. Graham stated that their point is that the DOW does not have standards for private water systems. He added that he did not know what standards would apply unless the DOW has a new rule now that every single standard that applies to a public water system also applies to a private water system.

Acting Manager Ushigome read Sec. 9-2.4, Water Supply and Distribution, of the Subdivision Ordinance that states that, "Water supply and distribution facilities shall conform to the rules and the construction standards of the Department of Water."

Mr. Graham stated that he understood this section of the subdivision ordinance but questioned that the DOW rules does not reference anywhere about private water systems conforming to standards, rules, etc.

Mr. Ben Garfinkle testified that in his past experience as a well driller, it has been the case that when they drilled wells for private water systems that the owner would sign a Waiver and Release to protect the County from any potential liability. He added that he knows that there are hundreds of homeowners in agriculture-zoned areas that are running private water systems that were not reviewed by the DOW.

Mr. D. Fujimoto added that the distinction is because they are going through the subdivision process. Mr. Garfinkle discussed that they are not doing a subdivision in the real sense of the word as they are actually down-zoning. Their lot is zoned for 33 lots. They know that there will not be adequate infrastructure for this area from the DOW for many years to come; therefore, the deed restriction would state that the maximum amount of homes that could be built on his 3 lots would be a maximum of 12 homes, which they are in essence doing a 21-home 'down-zoning'.

Mr. Garfinkle added that his private water system that was designed by Mr. Tom Nance is a robust system and far exceeds any County standards.

As Mr. D. Fujimoto reiterated that all of this is a result of their going through the subdivision process, Mr. Garfinkle stated that all they wanted to do was a boundary adjustment and in order to do that their only option was to go through the subdivision process.

On query by Mr. D. Fujimoto, Acting Manager Ushigome stated that one of the requirements to meet County standards for that area would be to construct a storage tank.

First Deputy County Attorney Kawate reminded the Board at this point that the facts at hand should be addressed to come to any conclusions and not by personal opinions.

Vice Chair Kahawai reiterated Mr. Nishimura's request to have the applicant write to the Board a compiled report that would clarify why the applicant felt that they should not fall under our standards. He felt that the Board would then have a better understanding of the applicant's position and where they should go from there.

Mr. D. Fujimoto stated that based on their private water system what is logical for a private water system versus minimum requirements of a public water system standards.

Mr. Nishimura moved to defer this matter and asked how long it would take for Mr. Graham to compile a report.

Mr. Garfinkle stated that he would not return to the Board as he felt that it would be difficult on their part, as they do not have the time or money to review the thick Water System Standards for their 6-home CPR. He felt that the County Attorney's Office need to opine on whether private water systems need to comply with the DOW's Water System Standards; if not, Mr. Nance had already designed a water system that far exceeds the needs of a 6-home CPR.

Mr. Garfinkle added that when they first came to the Board in December, 2007, the Board did not have the requirement of the private water system having to be up to County standards.

First Deputy County Attorney Kawate stated that the proper question to be asked is how this particular water system, that the applicant is proposing is adequate and reasonable for this proposed subdivision. He added that it would be helpful for the Board to have documentation on the details of the proposed water system, what it consists of, and why is the applicant's proposed private water system appropriate for their subdivision.

Mr. Kyono discussed that he felt that the legal opinion from the County Attorney's Office on whether the DOW has the right to impose County standards on private water systems is needed first before anyone can move forward. Then if the Department has the right to impose standards then the issue of reasonableness of their requirements comes to light.

Mr. D. Fujimoto concurred that this matter should be deferred until the Board gets the legal opinion. Acting Manager Ushigome also added that this matter should be deferred as they got additional information from the applicant only on June 3, 2008 that had not yet been reviewed.

Mr. Nishimura felt that a written report submittal versus mostly verbal testimony by the applicant would greatly assist the Board with their decision-making.

Mr. Costa stated that he felt it was prudent to have staff review the additional information before the Board asks the applicant to have their consultant do more extensive design work, etc.

Mr. Graham summarized that the main question is whether the DOW has standards for private water systems and if so, what are the standards? Also to speed the process along, Mr. Graham stated that they will prepare and formalize their request on their proposed water system for Lot 2 to show whatever the standards may be, what is reasonable for Lot 2. If it varies from typical standards, they will point it out in their written report.

Mr. Nishimura reiterated his motion and moved to defer his motion to the next Board Meeting and to have the applicant's report in time for the staff to review it before the next Board Meeting, seconded by Mr. Kyono.

Acting Manager Ushigome added that she would also want to see the water quality report. Mr. Garfinkle stated that they have the test results.

Mr. D. Fujimoto added for information that the DOW has exercised its right in the past to approve private water systems.

Vice Chair Kahawai suspended the rules to allow Mr. Tom Shigemoto of A&B Properties to speak.

Mr. Shigemoto asked if this project is not a subdivision, would the applicant have to comply with the County standards. The Board said no. He then asked if the County Attorney could rule whether this project is defined as a subdivision simply because it went through the subdivision process and what is the definition of a subdivision in the subdivision ordinance?

Mr. Nishimura stated as a point of order, his point is well taken but as a separate matter.

Motion was carried.

Mr. Garfinkle, Mr. Graham, Mr. Welborn, Mr. Nance left the meeting at about 11:18 a.m. Recess: 11:18 a.m. to 11:28 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

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

FINDINGS

LOCATION: 'Ele'ele. Approximately adjacent and near to the easterly side of the intersection of Waialo Road and Kaumuali'i Highway further identified by Tax Map Key 2-1-02: 51 and Tax Map Key 2-1-02: Por. 3 affecting a total area approximately 48 acres.

I. ACTIONS REQUIRED:

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, the question of who the water is being reserved for was asked? The Board requested that the Department provide additional information regarding the amount of potential water demand that would be required to allow for future infill development within the 'Ele'ele service area. The applicant is requesting to use existing water source and storage capacity from the Department's existing water system facilities. The Board Report/Minutes of May 8, 2008 Board Meeting was given to the Board for their reference.

II. **PROJECT DESCRIPTION AND USE:** Reference May 8, 2008 Board Report.

III. **LEGAL REQUIREMENTS:**

1. Zoning Designation, Ordinance PM-293-94
2. Board adopted the Water System Standards (WSS), Sections 113 and 111

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

The following includes 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 (556 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 0.615 mgd.

Existing Status of DOW 'Ele'ele Water System:

Current demand: 0.662 mgd
Pending demand: 0.615 mgd (See Attached Exhibit A)
Total demand: 1.277 mgd

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

Available Source Capacity 'Ele'ele: 1.15 mgd – 1.277 mgd = -0.127 mgd
Available Storage Capacity 'Ele'ele: 1.00 mgd – 1.277 mgd = -0.277 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 water demand projections that will be required for future development (Pending Development) within the ‘Ele‘ele service area, the available source and storage facilities will not be sufficient to provide adequate water system capacity to allow full development of the Pending Development. Additional source and storage facilities must be provided in order to allow full development within the ‘Ele‘ele service area.

RECOMMENDATION

It was recommended that the Board support the Water Department’s recommendation that was included in the “May 8, 2008 BOARD REPORT”.

Staff/Board Discussion:

Mr. Fujikawa stated that Mr. Nishimura previously requested on the clarification on the available storage for the ‘Ele‘ele Water System, which information was included in the previous Board Report that showed the available storage capacity as +.215 MG. This was derived from addressing existing consumption and future pending development that have received final subdivision approval, paid their FRC charges but have not gotten their water meter yet.

Mr. Fujikawa added that they also looked at potential development in Eleele for potential water demand. They found that there were 14 vacant lots within the Eleele service area that do not have water meter service. There is also a pending subdivision that has tentative subdivision approval, which is the Kaua‘i Habitat, Phase 2 that have 107 lots. This piece of land was initially owned by A&B Properties.

Mr. Fujikawa also added that most of the land in the area is zoned residential, with some light industrial. They also looked at upper ‘Ele‘ele area and found that potentially there could be about 550 additional dwelling units (ADUs) in the area. As ADUs in the ag zoned area is no longer being allowed, they did their research for potential ADUs only in the residential areas.

Mr. Fujikawa stated that the previous pending demand amount was .0123 MGD but after looking into this matter again with the potential ADUs, their revised total pending development demand is .615 MGD. Therefore, the initial source capacity was +.215 MGD but now there is a deficit: -.127.

Mr. Fujikawa also stated that the storage capacity has a deficit as it went from .215 MGD to a deficit of: -.277 MGD. He noted that A&B submitted a revised letter clarifying their water demand calculations, which was too late to be included in the Board Report. Their report stated that their proposed industrial and residential use demand was about 176,000 GPD, which was based on average day demand. Mr. Fujikawa informed the Board that the Department uses maximum day demand, which they re-calculated A&B’s average day demand to maximum day demand for a total of .26 MGD, which creates a storage shortage.

Mr. D. Fujimoto discussed that for wastewater facilities, once you reach 80% of capacity, they are required to design for future expansion. So now that we are in this situation, what are the DOW's plans for the future as far as well development and storage capacity; when does the DOW start implementing future expansion and could the DOW partner with the developer? Mr. Fujikawa concurred that it was a good idea to partner with the developer. He also would need to check where on the Water Plan 2020 priority list are the proposed water projects for the Hanapepe/'Ele'ele area.

On query by Mr. Kyono, Mr. Fujikawa stated that the projections for Water Plan 2020 were based on 2000 Kauai General Plan Update population projections for the island, which was about 70,000 people. They also have a prioritization plan that they just worked on with the Sustainability Plan in November, 2007, which defined what the DOW needs to do in the next 10 years. There are 160 projects addressed over the next 10 years. The prioritization was worked on by each of the divisions. The factors used to prioritize the projects were: 1) age conditions; 2) providing facilities for growth; 3) public safety; and 4) fire protection. Based on these conditions, the committee initially designated projects for each water system for 5-year increments.

On Mr. Nishimura's inquiry, Mr. Fujikawa discussed that, as per the Board's request, the increase of .123 to .615 was as a result of staff reviewing further for other potential developments in the 'Ele'ele area, as well as potential ADUs that may require more water. Mr. Fujikawa added that it is hard to know how many owners will build and/or do ADUs but the above are the perimeters.

On query by Mr. D. Fujimoto, Mr. Fujikawa replied that the ADU count was based on residential zoning and the number of lots that are either vacant or only have 1 house on the lot that have potential to have an ADU.

On query by Mr. Kyono, Mr. Fujikawa stated that when they review water inquiries for a certain area, his staff checks for existing consumption, pending development that have allocated water that got final approval but not used the water yet.

On query by Mr. Crowell, Mr. Fujikawa stated that as part of Water Plan 2020, the staff has earmarked service areas as existing service areas as well as new areas that constituted future urban development that had approvals; for example, the A&B/Kukuiula development, Amfac/Molokoa development, and the Grove Farm/Puhi development. As part of Water Plan 2020, these new service areas were still obligated to provide the necessary water infrastructure for each of these developments.

Mr. Fujikawa clarified for Mr. Crowell that whether the development wants to be in the service area, the developments are still obligated to do the necessary water infrastructure.

On query by Mr. Crowell, Mr. Fujikawa stated that although staff has researched that there is potential water use for potential ADUs, the water is not reserved for the ADUs. Mr. Fujikawa stated that only approved subdivisions have water reserved; water is not reserved for ADUs, tentative subdivisions, and vacant lots.

On query by Mr. Nishimura, Mr. Fujikawa stated that it appears that there is no available storage because per his May, 2008 Board Report, it showed that there was an available storage capacity of 0.125 MGD. A&B is requesting 0.176 MGD (per their May 15, 2008 letter to the DOW), which is based on average day demand, and the DOW uses maximum day demand per our standards. Therefore, A&B's storage requirements appear to exceed our available storage capacity.

Mr. Nishimura inquired whether A&B would be able to move forward on their smaller project, which appears to be their industrial project that would need about 80,000 gallons of water per A&B's calculations. Mr. Fujikawa stated that phasing the project is a possibility.

Mr. D. Fujimoto was excused from the meeting at about 12 noon.

A&B Testimony:

Mr. Tom Shigemoto and Mr. Dan Yasui of A&B Properties were present. Mr. Shigemoto testified that they have been consistently told that their project is out of the service area and they have to provide standard requirements such as source, storage and transmission lines.

Mr. Shigemoto stated that they use the basis of the DOW's response to their proposed project "Any actual development is dependent on the source, storage and transmission facilities existing at that time that would be determined upon the approval of a water master plan" as their basis of being at this Board Meeting. They want to get that determination whether their proposed project that is out of the service area and if the DOW has sufficient water for source and storage, would they be able to get water. He also asked if they are not in the service zone, why are they not in the service zone as their project area had been zoned since the 1990s, with the County General Plan updated in 2000 and Water Plan 2020 finalized in 2001?

Mr. Shigemoto stated that they first asked for the DOW's requirements for their proposed project back in August, 2006 and they were told that their proposed project was out of the service zone and it was dependent on source, storage and transmission lines existing at that time.

On September 6, 2007, their new consultant, RM Towill, submitted a water service request for only the industrial side of their project and stated that A&B needed 80,000 gallons of water per day. On October 23, 2007, DOW responded with a letter that their project was out of the service zone, their project is dependent on source, storage and transmission lines existing at that time, and that they would need to do a water master plan. Then on November 21, 2007, Mr. Shigemoto met with staff to verify if they could not get water because they were out of the service area or there was no water. They were told to submit another letter to clarify their revised request, which they did on December 4, 2007. Mr. Shigemoto stated that December 4th letter clarifies clearly why they are at this Board Meeting.

Mr. Shigemoto stated that their letter reiterated that they wanted to know what the system capacity was and what was the remaining water availability? A&B's letter to the DOW also stated that, "based on your answers, our client will determine whether it would be prudent to proceed with filing of a subdivision application at this time. If

your system cannot support the projectionwater demand then the project may be abandoned or deferred at a future date when water becomes available. However, if sufficient water is currently available but cannot be committed to the project because it falls outside of the Department's service area, it is our understanding that either a variance or a waiver from that rule may be available and may be obtained from the Board of Water Supply or the Manager of the Department. Please confirm that our understanding is correct."

Mr. Shigemoto stated further that they received a response from the Department on January 4, 2008, stating again the same disclosure. This letter also stated that the 'Ele'ele Water System had approximately 0.368 million gallons per day of source and 0.126 of storage available. The transmission lines would be dependent on the location and the size of the pipe. The DOW's letter ended with that A&B could submit a written request to also be on the Board's agenda to address the Department policy for their development.

Mr. Shigemoto added that the January 4th letter did not address their 2 questions about current water demand and what was the system capacity. They were not told at that time that the system was at capacity as is indicated today. If they were told that the system was at capacity at that time and water was not available, they would not be at this Board Meeting today.

Mr. Shigemoto questioned the potential reserve of water for ADUs, which seems to not be a common practice; if so, it would show that every water system on the island is over capacity. He added that A&B's projects, 'Ele'ele Nani I and II Subdivision, both have covenants that allows only one house per lot and prohibits ADUs; therefore, 324 lots in 'Ele'ele Nani I and II Subdivision cannot have ADUs. Based on A&B's restriction, Mr. Shigemoto was puzzled on how the Department got the count of the potential of 500+ ADU units.

Mr. Shigemoto stated that they were told that Water Plan 2020 addressed only the larger growth areas, which he guessed meant that there was no urgency demand for the Waimea/Kekaha and Hanapepe/'Ele'ele areas. However, if there is such a need now for source and storage that was recently determined by staff, why was not that addressed in Water Plan 2020? He also recognized that there are no future plans for transmission lines in the 'Ele'ele area so he guessed that it was sufficient.

Mr. Shigemoto added that in the staff's report, the Water Systems Standards Section Nos. 1-11 and 1-13 were addressed, which uses average day demand (ADD); therefore, he questioned why is the Department using maximum day demand (MDD)? The ADD is 500 gallons per unit for single family and 350 for multi-family or resort. He added that the MDD is normally used only for pipeline calculations and fire protection.

Mr. Shigemoto discussed that if there is water, he had no problem to do a water master plan but would not make sense if there is no water availability. He also discussed that with their calculations using ADD, they show availability for source and storage for their project.

On query by Mr. Costa, Mr. Shigemoto stated that he had a General Plan map that showed their projects covered by some type of General Plan designation. Mr. Shigemoto stated that A&B got their 28 acres in the year 2005 but it was already urban zoned since 1991 when they had their District Boundary Amendment approved. The 28 acres that consisted of residential and commercial projects were located at the corner of Halewili and Kaumualii Highway. They had their zoning for the industrial area of 28 acres since 1994.

Mr. Shigemoto discussed that if they are in the DOW's service area, they would want consideration from the Board to move forward with their project.

Mr. Nishimura asked if they would be willing to phase their project and do a water master plan? Mr. Nishimura explained the possibility of doing only the industrial first, as the demand shows, with a lower number of ADUs that may be built, that there would be enough source and storage to support it. Mr. Nishimura asked if A&B could move forward with only the industrial portion of their project and do a water master plan concurrently then A&B would later be responsible for water infrastructure improvements? Mr. Shigemoto stated that they are aware and there is no question about A&B installing water improvements; however, he would not be favorable if the DOW would then inform them that they are out of the service area and would have to install the source, storage and transmission lines. Mr. Shigemoto acknowledged that Acting Manager Ushigome was then informing him that they would still be responsible for the source, storage and transmission lines.

Acting Manager Ushigome discussed that although Water Plan 2020 recognized the existing zoning amendments for Kukuiula, Grove Farm, etc., it does not de-obligate the developers from providing applicable water infrastructure for their own development. She also added that as a result of going through the zoning process, the developer is obligated to construct needed water infrastructure.

Mr. Nishimura summarized that there are facilities in the area, A&B is not denying their obligation to construct the needed infrastructure, and the DOW acknowledges that there is adequate source and storage capacity, so why not have them go forward with a portion of their project and hold them to also completing their other remaining obligations. Acting Manager Ushigome stated that if they get to move forward on their industrial project, how would they take care of the transmission line requirements, especially since the DOW's only transmission line sits precariously on the side of the cliff of Hanapepe Valley. She stated that this transmission line is a major concern for the DOW; therefore, felt that A&B should install an alternate line to ensure the reliability of the transmission system. This should be addressed in the water master plan.

Acting Manager Ushigome added that as part of their zoning amendment approval, it included obligations to satisfy or improve and construct needed water infrastructure.

Mr. Costa and Mr. Shigemoto were curious to know what makes A&B's development out of the service area as it abuts the existing service area. Mr. Shigemoto wondered why they cannot hookup to the waterline that is on Waialo Road.

Acting Manager Ushigome discussed that one of the intents of the water master plan is to tell the DOW how the developer will satisfy and construct the necessary water system improvements. The DOW will not tell the developer how they should do it; however, as a general rule, the general conditions apply, which are having adequate source, storage and transmission lines.

On query by Mr. Shigemoto, Acting Manager Ushigome stated without knowing the specific details on how the developer will satisfy and address their water needs, the Department would generally state a generic statement that would say that source, storage and transmission lines would need to be addressed.

Mr. Shigemoto stated that he understood that it was up to the Board or Manager to decide if they are in the service area first of all and then if water is adequate, whether they can have water or not. He understood that there is adequate water so why would they need to do a water master plan.

Mr. Nishimura questioned that knowing that there is extra water, what are we saving it for? He reiterated that we have enough water to service a portion of A&B's project so why not give them the water to start a portion of their project, while they do their water master plan to see what needs to be done in order to get adequate water for the final phases of their project.

On query by Mr. Nishimura, Mr. Shigemoto stated that the larger project consists of the combined commercial and residential projects and they also have the industrial project.

Mr. Nishimura asked Acting Manager Ushigome if A&B's water master plan shows that the industrial project can be sustained by the current water availability, would the Department be able to service the project? Acting Manager Ushigome said yes if A&B is willing to mitigate and improve one of our sources by installing a booster pump.

Mr. Shigemoto added that they were told that they also needed to provide source, which he felt was not needed as the Department has water availability and they expect to use only 8,000 gallons per day. He stated that it would be too costly to develop a source for only 85,000 gallons per day.

Mr. Shigemoto could not understand why their project could not be serviced simply because they are out of the service area as there is available water capacity. He added that why not allow their project in the meantime and they will do the water master plan. If the Department sticks to their requirement of developing a source then it defeats the purpose of doing a water master plan.

Acting Manager Ushigome added that she is not only saying that they need to drill another source, but instead maybe there is a way of mitigating existing conditions as the present water system has physical constraints with the only transmission line on a precipice and is a concern for her. Another possibility is to do a pump improvement that would mitigate the source component for their development or strengthening of the transmission line that would satisfy the source component.

Mr. Kyono discussed that when he looks at the figures that was submitted by Mr. Fujikawa, with the knowledge that additional dwelling units (ADUs) are not instrumental in figuring out our water capacities, there seem to show that we have about 100,000 gallons of water availability per day.

On query by Mr. Kyono, Acting Chief of Operations Eddy stated that the Department has 3 wells in operation for Hanapepe/'Ele'ele with one transmission line; the norm is actually to have redundancy with more than one transmission line. Mr. Eddy also explained that there are some transmission issues in that area. For example, about 2 months ago, the upper section of the 'Ele'ele system experienced air in the line as a result of very low water pressure when a fire hydrant was damaged as a result of a car accident.

Mr. Eddy added that a water master plan would look at these infrastructure issues.

Vice Chair Kahawai discussed and questioned whether A&B would be willing to do a water master plan that would be contingent upon the DOW's approval, which would point out the issues of the area? These issues could be addressed by Water Plan 2020. Mr. Shigemoto stated that he would agree if it would not be futile to do it if the Department would still in the end state that A&B would need to develop a new source.

On query by Mr. Nishimura, Mr. Shigemoto stated that they want to use the excess water capacity for only their 2 proposed projects. Mr. Shigemoto stated that they are not ready to develop their projects now; therefore, they understand that there may be other developers in the meantime. They also understood that once they move forward with their projects that they would need to do the water master plan and if the plan shows that there is sufficient source then they would want to use that source. Mr. Shigemoto also reiterated the futility of the water plan process if the Department would still in the end state that A&B would need to develop a new source and do a loop system that would not be feasible and their projects would stop. If the plan showed that only a storage tank is needed, that would be something that they could undertake.

On query by Mr. Kyono, Acting Manager Ushigome stated that there are 3 wells in Hanapepe Valley that services Hanapepe/'Ele'ele.

On query by Mr. Kyono, Mr. Eddy stated that there was a temporary 8-inch HDP line located alongside the steel pipe that was installed several years ago when repairs were done to the steel pipe and is now not in use. Acting Manager Ushigome added that it was a concern for her too that the 2 waterlines were next to each other as she felt that if one line would break so would the other.

Mr. Nishimura moved to defer this matter to have the applicant work with the Department and come to some type of an agreement as far as how much source, how much storage, they are asking for and how much the Department wants to reserve. He felt that even in light of some of the ADU issues, there is some water availability; however, there may not be enough source and storage for the whole project so the applicant could be designated water availability temporarily for portions of their project to move forward.

Mr. Costa seconded the motion; motion was carried.

AGENDA

Mr. Kyono moved to re-order the Agenda to take New Business Agenda Item Nos. 4-8, seconded by Mr. Costa; motion was carried.

NEW BUSINESS

Re: Conveyance of Water Facility from Raymond B. Clayton, Erik S. Taylor, David K. Sakihama and Tanya T. Sakihama, Reid T.K. Sakihama, and Kenneth M. Sakihama for the Installation of Single Service Lateral for Lot 10-C, Unit B, Kaapuni Road, TMK: (4) 4-6-11:070, Kapaa, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby Raymond B. Clayton, Erik S. Taylor, David K. Sakihama and Tanya T. Sakihama, Reid T.K. Sakihama, and Kenneth M. Sakihama transfers unto the Board of Water Supply, County of Kauai, all of its right, title and interest to the following item:

Waterline: 1 ea. 1 inch copper single service lateral for One (1) - 5/8 inch meter

in place complete, in accordance with the as-built construction drawings for CONSTRUCTION PLANS FOR INSTALLATION OF SINGLE SERVICE LATERAL FOR LOT 10-C, UNIT B, prepared by Portech Engineering, Inc., Kapaa, Kauai, Hawaii.

A Grant of Easement is not required at this time.

Mr. Kyono moved to approve the Conveyance of Water Facility from Raymond B. Clayton, Erik S. Taylor, David K. Sakihama and Tanya T. Sakihama, Reid T.K. Sakihama, and Kenneth M. Sakihama, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Raymond O. Chua and Ari D. Aosved, for Kahuna Pali-Uli Condominium, Unit 1, Unit 2 and Common Element; TMK: (4) 4-6-04:049, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Raymond O. Chua and Ari D. Aosved, 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 Kahuna Pali-Uli Condominium, Unit 1, Unit 2 and Common Element; TMK: (4) 4-6-04:049, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Raymond O. Chua and Ari D. Aosved, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from John William Miller, Trustee of the Koochio Realty Trust, an Irrevocable Trust u/d/t dated August 27, 1996, for Subdivision No. S-2003-8; TMK: (4) 5-1-04:034, Kilauea, Hanalei District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, John William Miller, Trustee of the Koochio Realty Trust, an Irrevocable Trust u/d/t dated August 27, 1996, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) 1-inch copper single service lateral; one (1) 2 ½-inch gate valve, including CI valve box and cover; and one (1) each 2 ½-inch standpipe with 2 ½-inch outlet; in place complete, for Subdivision No. S-2003-8; TMK: (4) 5-1-04:034, Kilauea, Hanalei District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from John William Miller, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Mark A. Harmon, Joan T. Harmon, James T. Uno and LeAnn Uno, for the Water Meter for Lot 26-B-1-C; TMK: (4) 4-1-08:033, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Mark A. Harmon, Joan T. Harmon, James T. Uno and LeAnn Uno, 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 Water Meter for Lot 26-B-1-C; TMK: (4) 4-1-08:033, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement is not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Mark A. Harmon, Joan T. Harmon, James T. Uno and LeAnn Uno, seconded by Mr. Costa; motion was carried.

Re: Grant of Easement from KIAHUNA MAKAI, LLC, a Hawaii limited liability company; ROBERT E. KEOWN, as Trustee of the Robert E. Keown Trust under unrecorded Trust Agreement dated February 21, 2002; PAULELE LLC, a Hawaii limited liability company; GREGORY ALAN KAMM AND LINDSAY WARREN KAMM, husband and wife; CHESTER WAYNE HUNT AND LETITIA HUNT, as Trustees of the Hunt Family Revocable Living Trust under unrecorded Trust Agreement dated October 15, 1990; JAMES MICHAEL KILCOYNE AND LESLIE JAN KILCOYNE, husband and wife; WILLIAM ALAN MARSHALL AND PATRICIA ANNE MARSHALL, husband and wife; WILLIAM A. MARSHALL AND PATRICIA A. MARSHALL, Trustees of the Hunt Irrevocable Trust for the Benefit of Wade Douglas Marshall and Jalce Steven Marshall dated December 10, 2003; STEVEN A. HUNT, Trustee of the Steven A. Hunt Revocable Trust dated July 1, 1998; LAUREN L. HUNT, Trustee of the Lauren L. Hunt Revocable Trust dated July 1, 1998; STEVEN A. HUNT AND LAUREN L. HUNT, Trustees of the Hunt Irrevocable Trust for the Benefit of Conor Nakoa Hunt and

Mason Makalea Hunt dated December 10, 2003; ANGELINA CHAN LAUBSCH, unmarried; ALAN JOACHIM LAUBSCH, single; BERTRAND MICHAEL LAUBSCH, single; CELINE KATRIN LAUBSCH, single; MARVIN DEAN OTSUJI AND KATHERINE ARMSTRONG LEWI OTSUJI, husband and wife; GERARD JOSEPH MCGRATH AND JUDITH ANN MCGRATH, husband and wife; MARTIN J. KAHN, Trustee of that certain Martin J. Kahn Revocable Trust dated February 29, 1984, as amended; CAROLE ANN KAHN, Trustee of that certain Carole Ann Kahn Revocable Trust dated February 29, 1984, as amended; WAYNE CLAY HELMER AND SANDRA LYNN HELMER, husband and wife; ROBERT MYRON COHEN, unmarried; KEVIN JON ANDERSON AND KARLA JOLENE MARIE ANDERSON, husband and wife; GWEN KAZUE KAWAHARA JAMES, wife of Patrick Barry James; RAH, LLC, a Hawaii limited liability company; FISERV TRUST COMPANY, a Colorado corporation, FBO Arthur Geoffrey Sheldon; RDJ, Inc., a Hawaii corporation; and MARK HOGUE, Trustee of the Mark Hogue Living Trust dated January 27, 2000, for the Kiahuna Makai Subdivision, Subdivision Application S-2004-16, TMK: (4) 2-8-15:077, Poipu, Kauai, Hawaii

Mr. Chet Hunt was present at the meeting for this Grant of Easement and Conveyance of Water Facility documents for Kiahuna Makai LLC.

It was recommended that the Board approve the Grant of Easement document; whereby, the above owners grant to the Board of Water Supply, County of Kaua'i:

Lot 190, as shown on Map 8 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 164 and being a portion of the property described in Transfer Certificate of Title No. 900, 511, being also all of Lot 99 as shown on the unrecorded Final Subdivision Map approved by the Planning Commission of the County of Kauai on November 14, 2006, all of said property being also a portion of Tax Map Key No. (4) 2-8-014-035 (por.), Subdivision No.: 5-2004-16, and more particularly described in Exhibit "A" for the construction, installation, reinstallation, maintenance, repair and removal of potable waterlines, fire hydrants, air relief valves, water meters and related facilities, installed in accordance with the as-built construction drawings for CONSTRUCTION PLANS FOR KIAHUNA MAKAI SUBDIVISION prepared by Esaki Surveying and Mapping, Inc., together with the right of ingress and egress at any time to and from the said easement area with or without vehicles or other equipment as the Department of Water shall deem necessary for the proper operation of its water system.

Further, Board approval is specifically requested of the indemnification provision in this agreement, wherein the Board agrees to indemnify and hold harmless the Grantor 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. Kyono moved to approve the Grant of Easement from Kiahuna Makai LLC, etal, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from KIAHUNA MAKAI, LLC, a Hawaii limited liability company; ROBERT E. KEOWN, as Trustee of the Robert E. Keown Trust under unrecorded Trust Agreement dated February 21, 2002; PAULELE LLC, a Hawaii limited liability company; GREGORY ALAN KAMM AND LINDSAY WARREN KAMM, husband and wife; CHESTER WAYNE HUNT AND LETITIA HUNT, as Trustees of the Hunt Family Revocable Living Trust under unrecorded Trust Agreement dated October 15, 1990; JAMES MICHAEL KILCOYNE AND LESLIE JAN KILCOYNE, husband and wife; WILLIAM ALAN MARSHALL AND PATRICIA ANNE MARSHALL, husband and wife; WILLIAM A. MARSHALL AND PATRICIA A. MARSHALL, Trustees of the Hunt Irrevocable Trust for the Benefit of Wade Douglas Marshall and Jalce Steven Marshall dated December 10, 2003; STEVEN A. HUNT, Trustee of the Steven A. Hunt Revocable Trust dated July 1, 1998; LAUREN L. HUNT, Trustee of the Lauren L. Hunt Revocable Trust dated July 1, 1998; STEVEN A. HUNT AND LAUREN L. HUNT, Trustees of the Hunt Irrevocable Trust for the Benefit of Conor Nakoa Hunt and Mason Makalea Hunt dated December 10, 2003; ANGELINA CHAN LAUBSCH, unmarried; ALAN JOACHIM LAUBSCH, single; BERTRAND MICHAEL LAUBSCH, single; CELINE KATRIN LAUBSCH, single; MARVIN DEAN OTSUJI AND KATHERINE ARMSTRONG LEWI OTSUJI, husband and wife; GERARD JOSEPH MCGRATH AND JUDITH ANN MCGRATH, husband and wife; MARTIN J. KAHN, Trustee of that certain Martin J. Kahn Revocable Trust dated February 29, 1984, as amended; CAROLE ANN KAHN, Trustee of that certain Carole Ann Kahn Revocable Trust dated February 29, 1984, as amended; WAYNE CLAY HELMER AND SANDRA LYNN HELMER, husband and wife; ROBERT MYRON COHEN, unmarried; KEVIN JON ANDERSON AND KARLA JOLENE MARIE ANDERSON, husband and wife; GWEN KAZUE KAWAHARA JAMES, wife of Patrick Barry James; RAH, LLC, a Hawaii limited liability company; FISERV TRUST COMPANY, a Colorado corporation, FBO Arthur Geoffrey Sheldon; RDJ, Inc., a Hawaii corporation; and MARK HOGUE, Trustee of the Mark Hogue Living Trust dated January 27, 2000, for the Kiahuna Makai Subdivision, Subdivision Application S-2004-16, TMK: (4) 2-8-15:077, Poipu, Kauai, Hawaii

It was recommended that the Board approve the Conveyance of Water Facility document whereby the above listed owners, transfers unto the Board of Water Supply, County of Kaua'i, all of its right, title and interest to the following items listed on Exhibit A, in place complete, in accordance with the as-built construction drawings for CONSTRUCTION PLANS FOR KIAHUNA MAKAI SUBDIVISION, prepared by Esaki Surveying and Mapping, Inc. for the Kiahuna Makai Subdivision, Subdivision Application S-2004-16, TMK: (4) 2-8-15:077, Po'ipu, Kaua'i, Hawai'i.

A Grant of Easement was also required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Kiahuna Makai LLC, etal, seconded by Mr. Costa; motion was carried.

Mr. Hunt, Mr. Shigemoto and Mr. Yasui left the meeting at about 1:10 p.m.

Re: Request Board Approval of Contract Amendment for Job No. 02-14, WK-08, WK-09, Kapaa Homesteads (Makaleha) 0.5 Million Gallon Tank #2 and Kapahi 1.0 MG Storage Tank and Connecting Pipelines, Kapaa Water System, Kapaa, Kauai, Hawaii

RECOMMENDATION: It was recommended that the Board approve the second contract amendment to Belt Collins Hawaii, Ltd. for Job No. 02-14, WK-08, WK-09, Kapaa Homesteads 0.5 Million Gallon Tank #2 and Kapahi 1.0 MG Storage Tank and Connecting Pipelines, to compensate the consultant, Kodani & Associates, Inc., for the review, modifications and as-needed construction support and consultations for Job No. 03-03, Hardening of Generator Shelters at the Makaleha Tank Site.

FUNDING:

Total Funds Available, Job No. 02-14, WK-08, WK-09, Kapaa Homesteads 0.5 Million Gallon Tank #2 and Kapahi 1.0 MG Storage Tank and Connecting Pipelines, Kapa'a Water System, Kapaa, Kauai, Hawaii.....	\$650,000.00
Contract 427, Belt Collins HI, Ltd.....	\$611,678.00
Current Estimate, Amendment #2	<u>\$ 10,000.00</u>
Total.....	<u>\$621,678.00</u>
Balance Remaining	\$ 28,322.00

BACKGROUND:

After Hurricane Iniki, the Department proposed constructing Job No. 03-03, Hardening of Generator Shelters for the facilities servicing the hospitals. Subsequently, the Department decided to combine the tank project with the generator shelter project, necessitating the retention of the respective consultants. Belt Collins, consultant for the tank project has agreed to compensate Kodani, consultant for the generator shelter project, for the necessary review and modifications to the construction specifications and drawings and for as-needed construction support and consultation required by combining the projects with a contract amendment with the Board. (Compensation to Belt Collins was made with its first contract amendment.)

Mr. Crowell moved to approve the second contract amendment to Belt Collins Hawaii, Ltd. for Job No. 02-14, WK-08, WK-09, Kapaa Homesteads 0.5 Million Gallon Tank #2 and Kapahi 1.0 MG Storage Tank and Connecting Pipelines, to compensate the consultant, Kodani & Associates, Inc., for the review, modifications and as-needed construction support and consultations for Job No. 03-03, Hardening of Generator Shelters at the Makaleha Tank Site, seconded by Mr. Kyono; 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. Nishimura moved to defer this matter to the next Board Meeting, seconded by Mr. Crowell; motion was carried.

NEW BUSINESS

Re: Request to Testify by Eleanor M. Cox for Subdivision of Lot 37-D, Portion of the Consolidation of Portion of Grant 11224 (Abandoned Railroad Right of Way), Lot 37, Grant 6226, and Lot 38, Grant 6216, into Lot 37-D-1 and Lot 37-D-2, 'Oma'o, Kaua'i, Hawai'i, TMK: (4) 2-7-05: 28, S-2005-26

As Ms. Cox or her representative was not available for this Board Meeting, Mr. Kyono moved to defer this agenda item, seconded by Mr. Costa; motion was carried.

Re: Request Board Approval of the Rule Amendment and Water System Standards, as Amended, of the Board of Water Supply, County of Kauai

RECOMMENDATION:

It was requested that the Board approve the Rule Amendment and Water System Standards, as Amended, of the Board of Water Supply, County of Kauai

BACKGROUND:

The Public Hearing for the Amendment of Rules and Water System Standards was held on Thursday, May 8, 2008, 10:00 a.m., as the first order of the day. No one attended the Public Hearing to testify on this proposed rule amendment.

Note that the public hearing notice was published in the Wednesday, April 2, 2008 issue of The Garden Island; and we had previous concurrence from the SBRRB to move forward with this public hearing.

A post-public hearing response was received from the Small Business Regulatory Review Board (SBRRB), who confirmed their concurrence, as there was no testimony received for or against our proposed rule amendment at our Public Hearing.

If approved, the secretary will follow up with the necessary signatures from the Mayor, County Attorney and the County Clerk. Once the County Clerk signs the proposed rule amendment, it takes effect on July 1, 2008. This rule needs to be in place before the deadline date of June 30, 2008; otherwise, the rule in its present form will sunset as of July 1, 2008.

Mr. Crowell moved to approve the rule amendment, seconded by Mr. Nishimura; motion was carried.

Re: Request Board Approval of the Budget of the County Water Department for Fiscal Year 2008-09

The Finance Committee met on Tuesday, May 27, 2008 and submitted a report on their findings of the proposed Budget for Fiscal Year 2008-09 at the Finance Committee Meeting prior to this Regular Board Meeting. That report was approved by the Finance Committee and referred the budget to the full Board for final approval at this Board Meeting.

Thereafter, a resolution to reconcile the actual balances within the budget (a budget reconciliation resolution) needs to be approved at the Thursday, August 14, 2008 Board Meeting.

Mr. Kyono moved to approve the Budget for Fiscal Year 2008-09, seconded by Mr. Costa; motion was carried.

Lunch Recess: 1:15 p.m. to 1:57 p.m.

REPORTS

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

Mr. Nishimura moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures report and placed on file, seconded by Mr. Costa; 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: On Saturday, May 10th, the Bike Path hike was enjoyed by 6 staff members, 1 board member and 1 guest. The weather was great, the fellowship was great, the scenery was great, and the bento was also great, especially when you're so hungry after so much exercise!! A big mahalo to Keith Fujimoto for picking up the lunches and icing the water and then personally delivering it to the hikers!! Thanks to the following, who joined the hike: Keith Aoki, Bruce Inouye, Rona Miura, Randy Nishimura, Emi Tanihiro, Wynne Ushigome, Mona Yamauchi, Naomi Makaneole (Mona's guest).

The next hike is scheduled for July 19th, at the Alakai Swamp. Be there or be square!!

12th Annual Agricultural and Environmental Awareness Day: We will be participating as an Exhibitor at the 12th Annual Agricultural and Environmental Awareness Day on Thursday, May 29th. This event will be held at the U.H. CTAHR – Kaua'i Agricultural Research Center. We will be promoting water conservation to the anticipated 600 fifth grade students from around the island.

KCC Science Class: Started conversations with Brian Yamamoto from Kaua'i Community College on a possible program to help high school teachers focus on water quality. They are interested in working together, having students from each school monitoring water from their part of the island. They will probably focus on rivers, streams and reservoirs.

DWSRF Projects: The following nine projects have been identified as priorities for 2008-2009 SRF loans:

1. Job No. WK-42, Phase 1, 1.0 MG Stable Tank and Control Valves; Kapa'a Water System; Kapa'a, Kaua'i
2. Job No. KW-27, Kaumuali'i Highway 12" Main Replacement Elepaio Road to Huakai Road, Kekaha/Waimea Water System; Kekaha/Waimea, Kauai
3. Job No. 02-03, 12" Waterline along Kaumuali'i Highway (between Huakai and Moana Roads) and along Waimea Canyon Drive (between Kaumuali'i Highway and Haina Road), Waimea, Kaua'i
4. Job No. 03-01, KW-3, 8-Inch Main Replacement for Elepaio Road, Kekaha Water System, Kekaha, Kaua'i
5. Job No. 05-03, KW-25, Kapilimao 0.5 MG Storage Tank, Kekaha/Waimea Water System, Kekaha, Kaua'i
6. Job No. 05-07, Waha, Wawae, Niho Roads Main Replacement (Water Plan 2020 Project No. 7), Kalaheo, Kaua'i
7. Job No. 02-18, WK-32, Pipeline Replacement, Kapa'a Homesteads, Wailua/Kapa'a Water System, Kapa'a, Kaua'i
8. Job No. 04-06, KW-05, KW-20, Waimea Well "A" Renovation, Kekaha Well "B" Renovation; Kekaha/Waimea Water System, Kekaha, Kaua'i
9. Job No. 02-24, Renovate Akulikuli Tunnel; Wailua-Kapa'a Water System; Kapa'a, Kaua'i, Hawaii

Water Quality Report: The 2007 Water Quality Report, also referred to as Consumer Confidence Report (CCR), will be mailed in early June to all DOW customers.

Water Conservation for Kīlauea: Water Conservation request for East Kīlauea is being issued due to drops in tank levels for that specific area.

Summer Intern: Welcome Heather Kubota, our summer intern for Public Relations.

Mr. Nishimura moved to receive the Public Relations Update and placed on file, seconded by Mr. Kyono; 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. Some of the major highlights were below:

- A meeting will be held shortly with the Department of Personnel Services (DPS to discuss the Operations' Division Re-org.
- Heavy water usage in the Kīlauea area as probably some of the farmer's ag irrigation systems were broken and they had to use potable water. A press release will be going out soon to stress water conservation for the summer months, especially in East Kīlauea.

Mr. Costa moved to approve the Operational Maintenance Report, seconded by Mr. Kyono; motion was carried.

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

CONTRACTS AWARDED BY THE MANAGER: None.

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

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

Affordable Housing Update: Next Affordable Housing Task Force meeting scheduled for Monday, June 2, 2008 at Pi'ikoi Conference Room A.

On May 7, 2008, Gregg Fujikawa and I attended the County Council meeting to update the Community Assistance /Intergovernmental Relations Committee (CA/IGR) on the status of the Department's water system improvements projects that support the County's affordable housing project "set-aside" parcels. The State "set aside" lands are located near Mahelona Hospital, Hundley Heights, Kapahi along Kaapuni Road, and Kekaha. In addition to the State parcels, the County Affordable Housing properties include Paanau Village Phase II, Poi'pu Co-op Housing and the former Kapa'a Baseyard sites.

As part of the County Housing Agency's response, the Department submitted a memorandum summarizing and updating the project status and tentative "in service" dates that these improvements would be completed. (See attached DOW response letter to the Housing Director dated May 2, 2008.)

On a separate but related issue, Council requested the Department provide a copy of the "Kaua'i Lagoons Revised Water Study" and an updated assessment of the available water capacity for the Kapule Affordable Project on Haoa Street in Lihu'e. (See attached DOW response letter to CA/IGR Committee, Chairperson dated May 2, 2008.)

As a follow up discussion, the Council has requested the Department be present to provide a report on the list of "Pending Developments" for which water allocations have been identified. Also, the Department will 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. The next "call back" appearance before the Council CA/IGR Committee is scheduled for June 18, 2008.

Kapilimao 0.5 MG Tank and Emergency Generator Building: On May 27, 2008, a public hearing for a Use/Class IV Zoning Permit was held before the Planning Commission for the subject project. The project consists of constructing a 0.5 MG concrete water storage tank with appurtenant pipelines, perimeter fencing, paved access and an emergency generator building to service the Kekaha-Waimea water system.

Public testimony was received and basically focused on whether the Planning Commission should require that the County develop an alternative energy plan for all their projects. Specifically, the alternative energy discussion centered around "net

metering” photovoltaic (PV) energy in an attempt to recoup some of the Department’s electrical power costs primarily associated with the operation of its deepwell pumps. Of interest was the Department’s monthly kilowatt usage for the Kekaha pumps. An order-of-magnitude cost estimate of installing a PV system is about \$10K per kilowatt-hr (KW-Hr); therefore, a 20 KW-hr unit would cost \$200K and would produce about 100 KW-hr per day. On average our 4 pumps in Kekaha use a total of about 326 KW-hr per day.

According to KIUC, based on their system size, they have met the State Legislature’s requirement or cap for “net metering”. The cap was 1% of their annual peak demand. The “net metered” rate is 1 KW full credit which is higher payback than the “avoided cost” rate provided under Schedule Q. Further research is warranted to verify the overall costs, determine the system specifications and look for funding prior to installing PV systems.

The public hearing was closed and the Planning Department staff will present their recommendations at the next Commission meeting on June 10, 2008. Keith Fujimoto is the project engineer and will be representing the Department.

Cost Control Commission: The County Cost Control Commission is currently conducting a County-wide review of travel, training and overtime/accrued comp-time budgets and expenditures. The Commission requested the Department of Water be present at their next meeting on Monday, June 9th at the Council Chambers to answer questions regarding the following:

1. The Department’s response to the requested worksheet budget items; and
2. Information/status on a policy proposal regarding implementation of a consolidated billing system for County water and sewer services that would result in the termination of water service to customers who are delinquent on their water and/or sewer payments.

Currently, the Department of Water utilizes the Honolulu Board of Water Supply’s billing system to generate its monthly billing statements.

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. 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.

Paul Ganaden will be representing the Department at this meeting.

Mr. Crowell moved to approve the Manager’s Update, seconded by Mr. Costa; 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 was taken care of at the Committee 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:

PR Specialist Shiramizu reported to the Board and gave an updated summary from the issue champions:

Issue No. 1, Morale:

- a. Fun Committee – The Fun Committee coordinated a Fun Walk along the Kapaa Bike Path on May 10. Everyone who participated had a great time! The next hike is tentatively scheduled for July 19 and we will be hiking the Alakai trail (or at least a portion of the trail!). We will also be using the Waiver and Release form that was approved by the County Attorney's Office.
- b. Rewards and Recognition Committee – A revised WATER Bucks Program description has been sent to the County Attorney's Office for review, with our goal being to receive authority from the Mayor and delegate that authority to our manager to allow the department to fund this program. The County Attorney had no objections to the WATER Bucks Program and we will be scheduling another meeting with the County Personnel Department to ask for their approval.

Issue No. 2, Strong and Qualified Workforce:

- a. Civil Engineer interviews were completed and selections are in progress.
- b. OPS positions posted 4/20/08.
- c. Training on policies in progress.
- d. Training in the areas of safety, communications and team work are scheduled.

Issue No. 3, Water Quality:

- a. RFP pending Board's discussion with Tom Jacobs in August.
- b. We have monitored a few main breaks and are working out some of the bugs, like timing, number of samples, etc. Bill suggested we incorporate MPET into the flow (chart). We met with Tom² and should be able to get on to the MPET system, which will help jump-start the program.

Issue No. 4, Workplace Efficiencies:

a. Documentation of Work Processes

(1) Microsoft Visio Software:

- i. Both representatives, Fay Tateishi and Vicki Kobayashi, from the Accounting Section and the Billing Section, respectively, were very conscientious as they did their sample flow chart of one of their duties of their position. Thanks Fay & Vicki!! They will now interact with their fellow employees to verify that their flow chart does indeed work and is easy to understand. The rest of the representatives are still working on their flow charts. Again, these flow charts will assist in documenting their division's work processes and to share their process with their fellow division employees and other divisions to ensure that everyone is knowledgeable and on the same page. This is also one of the elements of succession planning with many to retire soon and will in turn assist with training new hires in their respective divisions.

j.

b. Implement State-of-the-Art Technologies for Efficient System Operation

(1) Automated Meter Reading (AMR) System

(ongoing project that was implemented in mid-March, 2008.)

- i. The test pilot, Isenberg/Kapaia area is nearly complete, with just the bigger or more difficult meters pending replacement or completion.
- ii. The Wailua, Waipouli and Kapaa areas are also nearly complete.
- iii. In mid May, PMI will be in the Kalāheo, 'Oma'ō, Lawai areas.

(2) Geographic Information System (GIS)

- i. A group will be formed to work on the implementation of a GIS System.

Issue No. 5, Accountability:

- a. Cell Phone Policy – Pending approval

AFFORDABLE HOUSING:

Acting Manager Ushigome reported that updated Affordable Housing Projects – Summary Status dated May 2, 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. Please see the attached progress report for each project.

Details are provided below.

- ✓ The Kapilimao 0.5 MG Storage Tank final design is complete. County Zoning and Use permits hearing was on May 27. Minor comments on the applications were received. Subdivision map still remains to be submitted to County. Barring further glitches, project can be advertised for construction in June.
- ✓ AMFAC Shaft 11 Renovation Phase 1B field pump testing is complete and the draft report is due week of May 26. Preliminary indications are that well may be under the influence of surface water from adjacent pond. A change order for removing abandoned power poles and conductors is under preparation.

The early start of Phase 2 of AMFAC Shaft 11 Renovation is still not underway due to delays in the consultant procurement process. Depending upon the consultant selected, contract negotiations may further delay the start.

- ✓ Easement negotiations with adjacent landowner (Yamamoto) are current focus. An appraisal of land costs was completed in May to allow consideration of an alternative suggested by Mr. Yamamoto - purchasing an entire lot. Mr. Yamamoto's attorney has been contacted and negotiations for land purchase will begin shortly.
- ✓ Final design for the Kapa'a Homesteads 0.5 MG Storage Tank is complete. Construction advertisement may proceed.
- ✓ Initial well siting report was submitted in April. Several alternatives suggested and recommendations made. Follow-up work includes evaluating well location affect on future land development (septic tanks) and chlorine contract time.
- ✓ SSFM continues final design of the Akulikuli Tunnel renovation. Investigation of alternative project configuration caused by wetlands and staff requests is complete and recommendations are 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: June '08

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

Work underway: permitting

Work ahead: permitting, construction

Current Major Area of Focus: permitting

Potential obstacles: none currently

Tentative Date Project in Service: December 2009

- Summary: All engineering work complete. Public hearing for County Use and Zoning permits was May 27, 2008. Hearing was uneventful with respect to project. Minor comments on the permit applications were received in May, which will be addressed in the construction contract documents. The subdivision map will be submitted to the County shortly.
- Contract Status: Design contract executed.
- Schedule: Schedule extended due to permit acquisition. Construction expected to start early 2009.
- Permits: County use and zoning permits are primary outstanding permits. Public hearing scheduled for May 27, 2008.
- Land & Easements: Draft easement maps complete. Subdivision map to be submitted to County Planning shortly.
- Agency Coordination: See Permits.
- Problems and Proposed Mitigation: Permit issues appear resolved. Subdivision map submittal remains, then contract advertisement.

2. (KW-28), Amfac Shaft 11 Renovation--Summary Project Status: June '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 preparation

Potential Obstacles: water quantity and quality unknown – testing report pending
Tentative Date Project in Service: December 2009

- Summary: The pumping test report will be submitted week of May 26, 2008. Preliminary reports are that well may be under the influence of surface water from adjacent pond. Change order to provide for removal of abandoned power line is being prepared.
- Contract Status: Phase 1B contract complete. Phase 2 contract delayed pending completion of consultant procurement.
- Schedule: Phase 1B okay. See Problems & Proposed Mitigation below for Phase 2.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Staff completion of consultant procurement process delaying start of Phase 2 (final design).

3. (WK-08), Kapahi 1.0 MG Storage Tank–Summary Project Status: June '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: Final design continues. An appraisal of the land cost for acquiring an entire lot from Mr. Yamamoto was received the week of May 26, 2008 and negotiations for purchase are beginning.
- Contract Status: Final design contract executed.
- Schedule: Updated schedule received March 7. Construction scheduled for completion August, 2009.
- Permits: No issues.
- Land & Easements: Easement negotiations with Mr. Yamamoto continue. Alternative tank site configuration responding to Mr. Yamamoto's concerns is ready for presentation.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Project configuration and landowner issues not yet resolved. Recently completed appraisal will advance negotiations.

4. (WK-09) Kapa'a Homesteads 0.5 MG Storage Tank–Summary Status Report–June '08

Project Manager: Mark Salmon --- Design Consultant: Belt, Collins

Work underway: bid advertisement

Work ahead: bidding and construction

Current Major Area of Focus: bidding

Potential obstacles: none currently

Tentative Date Project in Service: July 2009

- Summary: All engineering work is completed – bid process may proceed.
- 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– June '08

Project Manager: Mark Salmon
 Design Consultant: HDR Engineering (Hawaii Pacific Engineers)

Work underway: Initial investigation and well site selection

Work ahead: well design, environmental/permitting and construction

Current Major Area of Focus: well site selection

Potential obstacles: none currently

Tentative Date Project in Service: December 2009

- Summary: Initial well siting study completed. Several sites were evaluated and recommendations included. Followup work includes determining impact of well location on future development (septic tank construction), and available chlorine contact time associated with each alternative. Change order to add this work to consultant contract may be necessary.
- 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 – June'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: EA. access road alignment, wetlands mitigation

Potential obstacles: water quantity and quality unknown – potential addition of treatment

Tentative Date Project in Service: December 2010

- Summary: Final design continues. Wetland delineation submitted to Corps of Engineers. Investigation of impacts to project due to wetlands and staff requested revision is complete and recommendations submitted to staff week of May 19, 2008.
- Contract Status: No issues.
- Schedule: Continued investigation into 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.

WP2020 Program Sustainability Services:

Acting Manager Ushigome reported on the following:

RW Beck is planning to be at the August Board meeting instead of the July, 2008 Board Meeting, both Tom Jacobs and Ann Hajnosz will be attending the meeting.

Tom Jacobs was also interested in meeting any Board members attending the upcoming AWWA-ACE conference in Atlanta. He wanted to discuss and identify the specific issues the Board wanted addressed at the August meeting. If anyone is interested in meeting with Tom, please let me know.

Again, RW Beck's memorandum dated April 17, 2008 was included in last month's Board packet. This memo sought to clarify the disconnect between RW Beck's July 2007 Board presentation and the ability to move forward with the procurement of a RFP for a Program Manager.

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. For reference, attached is a copy of the RW Beck PowerPoint presentation of the proposed WP2020 Sustainability Plan structure which the Board approved.

At the May 27th Finance Committee meeting, a Board member inquired about the status of the Draft Board Governance Policies. In reviewing RW Beck's contract and scope of work under Amendment No. 1, the consultant was tasked to prepare a set of draft Governance Policies for the Board. The level of effort was based on three two-hour workshops with the Board following their regular meetings in August, September, and October.

In reviewing the November 2006 Board minutes, RW Beck asked the Board how they wanted to proceed with the Draft Governance Policies. The Board was not ready at that time to finalize these policies, therefore, recommended that this be brought up in January or February 2007. Subsequently, there were no further discussions relating to the Board Governance Policies.

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

EXECUTIVE SESSION:

ES-2008-4 - 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 and department staff regarding Benjamin Garfinkle's request for Board Approval to Clarify the Motion made at the December 13, 2007 Board for Agenda Item: "Revised Appeal to November 20, 2007 Agenda Item- Benjamin Garfinkle Regarding DOW Conditions of Tentative Subdivision Approval for Boundary Adjustment (Consolidation and Re-subdivision), TMK (4) 4-2-03:12, 65 and 66. 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-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.

First Deputy County Attorney Kawate read the Executive Meeting Session notices above.

Mr. Costa moved to defer Executive Session, Old Business No. J3, ES-2008-5, A&B Properties, Inc., seconded by Mr. Nishimura; motion was carried.

There was no Board discussion and no public testimony. Mr. Costa moved to go into Executive Session at about 2:10 p.m., seconded by Mr. Nishimura; motion was carried. Staff and guests were excused from the meeting.

The Regular Meeting was called back to order at 3:52 p.m.

ADJOURNMENT:

There being no further business, Mr. Kahawai moved to adjourn the meeting at 3:52 p.m., seconded by Mr. Kyono; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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