

REGULAR MEETING
BOARD OF WATER SUPPLY
Tuesday, May 15, 2007

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Tuesday, May 15, 2007. Chairperson Lynn McCrory called the meeting to order at 10:27 a.m. On roll call, the following answered present:

BOARD: Ms. Lynn McCrory, Chairperson
Mr. Ian Costa (present at 10:20 a.m.)
Mr. Donald Fujimoto
Mr. Leland Kahawai
Mr. Steven Kyono
Mr. Roy Oyama
Ms. Bernie Sakoda

STAFF: Ms. Wynne Ushigome
Mr. Paul Ganaden
Mr. William Eddy
Mr. Gregg Fujikawa
Mr. Keith Fujimoto
Ms. Faith Shiramizu
Ms. Amy Esaki
Mr. Dustin Moises
Deputy County Attorney Rosa Flores

Absent & excused: Mr. Les Yoshioka
Mr. Bruce Inouye

GUESTS: Mr. Tom Jacobs, RW Beck
Mr. Mark Salmon, RW Beck
Mr. James Beyer (left at about 11:05 a.m.)
Mr. Patrick Claytor (left at about 11:05 a.m.)
Mr. David Hinazumi, Grove Farm (left at about 11:25 a.m.)
Mr. Mike Tresler, Grove Farm (left at about 11:25 a.m.)
Ms. Tracy Nagata, DR Horton (left at about 11:25 a.m.)
Mr. Clyde Kodani, Guest (left at about 11:25 a.m.)
Mr. Richard Maeda, Kauai Builders (left at about 12:20 p.m.)
Mr. Wayne Nakamura, Kauai Builders (left at about 12:20 p.m.)
Mr. Dick Ford, Kauai Builder's Insurance Agent (left at about 12:20 p.m.)
Jason & Dorene Stone & Agnes Uchizono (left at about 12:35 p.m.)

AGENDA

Chair McCrory requested to defer to the next Board Meeting: Job Performance Evaluation of the Department of Water's Acting Manager and Chief Engineer. She also requested to reorder the Agenda and to have to the following taken up after Correspondence in the following order:

1. New Business, Item No. 1, Mr. & Mrs. Beyer Request to Transfer Water Meters to Lot 10-A, TMK: (4) 2-3-02:010, Laohu Road, Lawai, Kauai

2. Old Business, Item No. 2, Request to Testify and Provide Status Update on the Progress of the Temporary Booster Pump & Connection and Puhi Booster Pump & Transmission Line by DR Horton for the Hookena at Puhi Project
3. New Business, Item No. 3, Request to Testify by Kaua'i Builders to Resolve a Payment Conflict on Job No. 94-3, Kalāheo 0.5 MG Reservoir, Booster Pumps & Connecting Pipelines, Kalāheo, Kauai
4. Request to Testify by Doreen Stone to Request Board Approval to Waive Building Permit Condition, Building Permit No.06-535, 6327-B Opaekaa Road, CPR Unit 2, Opaekaa Farms Condominium, Lot 4, TMK: (4) 4-2-06:039, Wailua Homesteads, Kaua'i, Hawai'i

Ms. Sakoda moved to approve the Agenda, as amended, seconded by Mr. Kyono; motion was carried.

MINUTES

Acting Manager Ushigome stated that on Page 7, for Kikiaola's motion, it should also include that the Board approved Kikiaola's request 'with the above conditions'

Mr. Kyono moved to accept the Regular Meeting Minutes of April 17, 2007, as amended and placed on file, seconded by Mr. Oyama; motion was carried.

CORRESPONDENCE/ANNOUNCEMENTS:

1. Article on Office of Information Practices on Proper Actions Taken on a Commission's Agenda Item
2. Department of Water's Letter to the Real Estate Commission to Request Review of CPR Developments
3. Letter from the Real Estate Commission that the Department of Water's Request Review of CPR Developments will be an Agenda Item at their May 9, 2007 Real Estate Commission's Condominium Review Committee Meeting
4. Resolution for Leland K. Kahawai to Confirm his Partial Term (until December 31, 2007) on the Water Board
5. Letter from County Engineer Donald Fujimoto Regarding the Abandonment and Exchange of the 1940's Tank Site and Remnant Parcel, Kalāheo, Kaua'i, Hawai'i, with the 1968 Tank Site and Future Tank Site, Kalāheo, Kaua'i, Hawaii

Mr. Fujimoto moved to receive all of the Correspondence and placed on file, seconded by Mr. Kyono; motion was carried.

Mr. Ian Costa was present at the meeting at about 10:20 a.m.

Re: Mr. & Mrs. Beyer Request to Transfer Water Meters to Lot 10-A, TMK: (4) 2-3-02:010, Lauohu Road, Lawai, Kauai

Mr. James Beyer and Mr. Patrick Claytor were present at the meeting.

Recommendation:

1. It was recommended that the Board not approve Mr. & Mrs. Beyer's request to transfer the second water meter that was conditionally approved for Lot 10-B, TMK No. (4) 2-3-02:107 to CPR Unit B, Lot 10-A, TMK No. (4) 2-3-02:010
2. It was recommended that the Board not approve Mr. & Mrs. Beyer's request to transfer the second existing water meter for Lot 124, TMK No. (4) 2-3-02:009 to CPR Unit C, Lot 10-A, TMK No. (4) 2-3-02:010

Background:

Mr. & Mrs. James E. Beyer requested that they be allowed to appeal a policy of the Department of Water (DOW) regarding water meter transfer from one lot to another lot. The Beyers have developed a four (4) unit CPR on Lot 10-A, TMK (4) 2-3-02:010 and are requesting that two additional water meters beyond the two existing water meters be allowed to service additional dwelling units on Lot 10-A.

1. Existing Water Meter Service:

- a. Lot 10-A, TMK: (4) 2-3-02:010: Two existing 5/8-inch water meters are located along Umiumi Road. Both water meters recorded usage during 2005 and 2006.
- b. Lot 10-B, TMK (4) 2-3-02:107: No existing meters are installed. DOW provided conditional approval for two 5/8-inch meters.
- c. Lot 124, TMK: (4) 2-3-02:009: Two existing 5/8-inch water meters are located along Laohu Road. Both water meters recorded usage during 2006.

2. Lot 10-B Water Meter Service Request Letter (DOW Letter Dated September 25, 2006):

The DOW provided conditional approval for the Beyer's request for two additional water meters for Lot 10-B, TMK No. (4) 2-3-02:107. The DOW letter stated that prior to building permit or water meter approval for two meters/units the applicant shall:

- a. Prepare construction drawings for the two water meter service connections and construct said water meter service connections
- b. Pay the applicable facilities reserve charge (FRC) for two 5/8-inch water meters.
- c. Receive a "Certificate of Completion" of the two water meter service connection water improvements.

The Beyers were informed that the conditional approval is valid for a period of one year from September 25, 2006.

The Beyers were also informed that the DOW is currently limiting water service in the Lawai-Omao Water System to two 5/8-inch water meters or two dwelling units per lot of record until additional storage facilities are available.

3. Lot 10-A Water Meter Service Inquiry Letter (DOW Letter Dated March 10, 2005):
Mr. Beyer inquired about the possibility of additional water meters for their 4-unit CPR located at Lot 10-A, TMK No. (4) 2-3-02:010. The DOW informed Mr. Beyer

that any actual subdivision or development of his lot would be dependent on the adequacy of the source, storage and transmission facilities existing at that time. At the present time, the storage facilities are at capacity and that full development of the 4-unit CPR would require the construction of additional storage facilities for the Lawai-Omao Water System. Mr. Beyer was informed that he has the option of waiting for others to provide additional storage facilities.

4. Lot 124 Water Meter Service Inquiry (DOW March 14, 2003 Letter):

Mr. Beyer asked if Lot 124, TMK 2-3-20:009 would be allowed two water meters. The DOW informed Mr. Beyer that any actual subdivision or development of his lot would be dependent on the adequacy of the source, storage and transmission facilities existing at that time. Mr. Beyer was also informed that the DOW is currently allowing two units per lot of record and that the use of the second water meter must be provided prior to water meter approval.

Findings:

Throughout the water meter service inquiry and meter request process the Beyers' were informed that DOW was limiting water service to two 5/8-inch water meters or two dwelling units per lot of record until additional storage facilities are available.

Request 1: Transfer the Second Water Meter that was Approved for Lot 10-B, TMK No. (4) 2-3-02:107 to CPR Unit B, Parcel 10-A, TMK No. (4) 2-3-02:

The DOW adopted an administrative water meter restrictive policy for the Lawai-Omao Water System. The unwritten policy has been in effect since late 1997. The policy states that the Department of Water (DOW) is currently limiting water service in the area to two 5/8-inch water meters or two dwelling units per lot of record in the area until additional storage facilities are available.

Although the Department's Rules do not address transfer of water meter capacity between lots, there is a Department administrative policy that allows the transfer of water meters under certain circumstances. The unwritten policy stipulates that the owners must be the same for both lots and that the meter transfer will be limited to the same water system service area. Both lots are located in the Lawai-Omao water system and ownership of both lots appears to be the same owner.

Currently, there are no water meters serving Lot 10-B. The Beyers received conditional approval for two water meters, but have not completed the necessary conditions for water meter approval. The Beyers' request to allocate excess water from Lot 10-B to Lot 10-A do not meet the conditions of the meter transfer policy because Lot 10-B does not have a existing water meter in place that can be transferred.

As a consequence, if an additional water meter is allowed to be transferred to Lot 10-A, Lot 10-A will be allowed more than two meters/units on this lot of record. The result will override the current water meter restrictive policy for this area.

The Department recommended that the request for meter transfer from Lot 10-B not be approved because:

- Lot 10-B does not have an existing water meter in place that can be transferred.
- The result of the meter transfer will override the current water meter restriction policy and allow more than two water meters for Lot 10-A.

Request 2: Transfer the Second Existing Water Meter for Lot 124, TMK No. (4) 2-3-02:009 to CPR Unit C, Lot 10-A, TMK No. (4) 2-3-02:010:

The DOW adopted an administrative water meter restrictive policy for the Lawai-Omao Water System. The unwritten policy has been in effect since late 1997. The policy states that the Department of Water (DOW) is currently limiting water service in the area to two 5/8-inch water meters or two dwelling units per lot of record in the area until additional storage facilities are available.

Although the Department's Rules do not address transfer of water meter capacity between lots, there is a Department administrative policy that allows the transfer of water meters under certain circumstances. The unwritten policy stipulates that the owners must be the same for both lots and that the meter transfer will be limited to the same water system service area.

It should be noted that although the two water meters for Lot 124 does exist, DOW billing records indicate that water consumption use is occurring from both water meters that service Lot 124. It is not clear which water meter will be transferred from Lot 124 since both meters are currently being used.

In addition, both lots are located in the Lawai-Omao Water System. However, it is clear that the ownership of both lots is not the same owner. Although the owners of Lot 124 are declining any consideration from the Beyers and understand that they will not have a second water meter to further develop Lot 124, there is the potential for other lot owners to attach conditions and considerations for non-related meter transfers between lot owners.

As a consequence, if an additional water meter is allowed to be transferred to Lot 10-A, Lot 10-A will be allowed more than two meters/units on this lot of record. The result will override the current water meter restrictive policy for this area.

The Department recommended that the request for meter transfer from Lot 10-B not be approved because:

- The meter transfer involves different lot owners.
- The result of the transfer will override the current water meter restriction policy and allow more than two water meters for Lot 10-A.

The background information and map were given to the Board for their information.

Board/Staff Discussion

Mr. D. Fujimoto discussed that whoever gives up his meter, he would recommend that it be recorded with the land.

On query by Chair McCrory, Acting Manager Ushigome stated that the proposed storage facility in this area is in design; however, she estimated that it would not be done in the next 5 years or so.

On query by Chair McCrory, Mr. Fujikawa stated that he would guess that the storage in that area is about at its limit.

On query by Chair McCrory, Mr. Fujikawa stated that for Lot 10-B, there are no water meters now; however, it could have 2 water meters and if they would want to install the 2 water meters, they would have to pay the applicable FRC at that time. The 2nd condition was that since the water meters do not front the lot itself, but are located about 500 to 1,000 feet away, they would have to construct the waterline. There is no waterline that fronts the lot, as it is along a roadway that is not improved. So typically the water meters would be located back on the existing County roadway where the existing County pipelines are located.

Chair McCrory stated that one of her thoughts that she had to eliminate speculation potential was to have the DOW take back one of the meters that was on the one lot with 2 meters and to have the owner record with the land that the lot has only 1 meter and cannot have 2, unless the storage problem is fixed. She asked if the DOW took back the water meter, so there is no speculation, how much would we charge as a restocking fee? Acting Manager Ushigome stated that the DOW does not have a restocking fee as part of its Rules.

On query by Mr. Kyono, Acting Chief of Operations Eddy stated that it would be unusual for anyone to give back a water meter but, if a meter is abandoned, Operations would cut and cap the service lateral at the water main.

Testimony:

Mr. Beyer and Mr. Claytor introduced themselves. Mr. Beyer stated that Mr. Claytor was the owner of Parcel No. 9 and Mr. Beyer owned Parcel Nos. 10 and 107.

Mr. Beyer stated his request was in his letter. He summarized that he bought Parcel 10 and because A&B's ditch crossed through his property, the Planning Department determined based on the lot configuration and location of the ditch, the ditch dissected Parcel 10 into essentially 2 separate lots. (*The lots are identified as Lot 10-A and Lot 10-B. Real Property Division assigned a new parcel number to Lot 10-B, this new number is Parcel 107. Lot 10-A retained the original Parcel number which was Parcel 10.*)

Mr. Beyer requested 2 water meters for Parcel 107 and got DOW's conditional approval for the 2 water meters. He did not want to install those 2 water meters because of the possibility of moving one of the water meters over.

Mr. Beyer also stated that Mr. Claytor bought Parcel No. 9 from him. Mr. Beyer had paid for the 2 water meters for Parcel No. 9, which Mr. Claytor later bought.

To clarify the lots, Mr. Kyono checked the map and stated that Lot 107 is now Lot 10-B and Parcel 10 is Lot 10-A and there is Lot 124 (Claytor property).

(Note: The Board Meeting tape (Tape No. 1, Side A) from #369 to #771 was inadvertently erased; therefore, there are no minutes for this section of the tape. Also note that a motion was made in the part of the tape that was erased.)

On query by Chair McCrory, Mr. Fujikawa stated that there are no restrictions on the Kalaheo Water System. This would be pertinent if it was found that the lots in question should be fed off of the Kalaheo Water System instead of the Lawai-Omao Water System. Staff would need to re-verify which water system feeds the lots. Mr. Beyer's requirements were based on the meters fed off of the Lawai-Omao Water System.

Mr. Kyono moved to withdraw his previous motion, seconded by Mr. Oyama; motion was carried.

Mr. Costa moved to defer this matter to the next Board Meeting to research and confirm which water system was feeding the property of concern and the source amount, seconded by Ms. Sakoda; motion was carried.

Chair McCrory suggested to Mr. Beyer that he check with his consultant whether it would make sense if he should feed off the other water system.

Mr. Beyer and Mr. Claytor left the meeting at about 11:05 a.m.

Re: Request to Testify and Provide Status Update on the Progress of the Temporary Booster Pump & Connection and Puhi Booster Pump & Transmission Line by DR Horton for the Hookena at Puhi Project

Ms. Tracy Nagata of DR Horton, Mr. Mike Tresler and Mr. David Hinazumi of Grove Farm and Mr. Clyde Kodani, Consultant, were present at the meeting.

Acting Manager Ushigome reported on the following:

Recommendation:

DR Horton submitted a request to appear before the Board to provide a status update for the Puhi 393-510' Booster Pump Station.

In addition, the Department requested to clarify with the Board the conditional approval granted to Grove Farm on the water source request for DR Horton's Hookena at Puhi (56-unit multi-family) affordable housing project.

Background:

At the April 2007 Board Meeting, Grove Farm testified that despite their best efforts, they are unable to complete the construction of the Puhi 393-510' Booster Pump Station (BPS) and the 16-inch Kilohana Transmission Main as originally represented. Upon hearing the Grove Farm's testimony that the proposed Puhi BPS would be completed within 4 to 6 months and DR Horton's anticipated completion schedule for the multi-family units, the Board granted Grove Farm's request to allow the issuance of DR Horton's Hookena at Puhi water meters (domestic master meter and fire detector check meter) pending the completion of the following conditions:

- The water usage (942 gpm) as represented in Grove Farm's letter dated April 4, 2007 be validated by the Department of Water staff, and;
- Construction plans showing the connecting piping for the emergency booster pump shall be designed and installed. The emergency booster pump shall be physically connected and fully operational until the Puhi 310-510' BPS is completed and in service.

Contrary to Grove Farm's contention that there is excess source capacity in the Puhi Water System, the Board was concerned that this assumption did not consider the Water System Standards' (WSS) requirement that the largest source be considered as "standby" or off-line when computing the Puhi water system's source capacity. Grove Farm's engineering consultant (Akinaka & Associates) asked the Board to consider using the Department of Water's emergency booster pump as an interim "standby" option to mitigate the source capacity issue while the Puhi BPS is being constructed.

In lieu of the allowing the issuance of the water meters to Hookena prior to the completion of the Puhi BPS, Grove Farm agreed to be solely responsible for maintaining and operating the emergency booster pump when needed by the Department of Water. The Department of Water is responsible for supplying the emergency booster pump to Grove Farm.

Mr. David Hinazumi of Grove Farm also submitted a status report dated May 3, 2007.

Board/Staff Discussion:

On query by Acting Manager Ushigome on exactly what the Board had approved at the last Board Meeting, Chair McCrory stated that the Board approved for Grove Farm to get their water meter; however, this matter is on the agenda again to clarify the temporary booster pump.

Chair McCrory added that Grove Farm's engineer stated that they had no qualms about the connection of the temporary booster pump station and that Grove Farm could be connected to the County's 3 wells; however, the State Water Code says that it cannot be done. Also, their engineer stated that the booster pump station could be done in conjunction with Grove Farm's proposed housing; therefore, the Board wanted to reconfirm that the temporary booster pump station would work.

On query by Acting Manager Ushigome, Chair McCrory stated that the Board expects the temporary booster pump station to be ready by the end of May, 2007.

Testimony

Ms. Tracy Nagata of DR Horton thanked the Board for allowing them to give an update on their project.

Ms. Nagata wanted to re-clarify that she would be able to apply for their water meter today and Chair McCrory concurred. She also verified that with the water meter, she would be able to get a Certificate of Occupancy.

Mr. Mike Tresler of Grove Farm gave an update in addition to Mr. Dave Hinazumi's update letter. Mr. Tresler thanked the Board for their support of affordable housing.

Mr. Tresler reported that they have started construction on the booster pump station on Monday, May 14, 2007 and they have a completion date of September 11, 2007, barring any major rain delays, etc. There are liquidated damages of \$500 a day for the first 30 days and \$1,000 a day thereafter.

He stated that Grove Farm is committed to finish the permanent booster pump station. They also sent in plans to the DOW for review of their emergency booster pump on April 25, 2007. They had not received any word yet on the DOW's review.

Mr. K. Fujimoto stated that there was a question on whether the emergency booster pump station had to now be operational or only operational for an emergency. Chair McCrory stated that is why this matter is back on the Agenda to reconfirm that the temporary booster pump station needed to be operational now and until the permanent booster pump station is completed. The Board needed assurance that there is backup in case of any emergencies in the Lihue area.

On query by Chair McCrory, Mr. K. Fujimoto stated that he felt it was possible to connect the temporary booster pump station. Mr. Tresler stated that Grove Farm had confirmed with their engineer that it was possible to connect the temporary booster pump station.

Chair McCrory reiterated that Grove Farm needed to have the temporary booster pump station operational by the end of May, 2007 and that it works and Grove Farm knows what to do in case our water system goes down.

Acting Chief of Operations Bill Eddy stated that the temporary booster pump needed to be brought down to the site, serviced and tested. Chair McCrory stated that Grove Farm would be responsible to service and test the pump. Chair McCrory added that in case of an emergency it would be Grove Farm's responsibility to maintain the pump. Mr. Tresler concurred that he understood Grove Farm's responsibility of the temporary booster pump station until the completion of the permanent booster pump station.

Acting Chief of Operations Eddy confirmed that it would be at the DOW's direction when the temporary booster pump needed to be used. Chair McCrory concurred. Mr. Tresler reiterated and confirmed that the DOW would bring the pump to the site and Grove Farm would do the connection. Chair McCrory concurred.

Mr. Tresler stated that if there were any concerns on the emergency booster pump station that the DOW should call him personally and he gave the Department and Board his cellular phone number.

Mr. Tresler added that Grove Farm would secure the area that the temporary booster pump is located.

On query by Ms. Nagata, she was told that she could go to apply for their water meter today.

Mr. Costa moved that by the end of May, 2007 the temporary booster pump station must be installed, tested and operational and verified by the DOW staff, otherwise, the DOW will cease to work on any of the projects of Grove Farm's and its subsidiaries until it is done, seconded by Mr. Oyama; motion was carried.

Mr. Tresler, Ms. Nagata, Mr. Hinazumi and Mr. Kodani all left the meeting at about 11:25 a.m.

Re: Job No. 94-3, K-10, 0.5 Million Gallon Kalaheo Storage Tank, Kalaheo, Kalaheo, Kauai, Hawaii

Mr. Richard Maeda and Mr. Wayne Nakamura of Kauai Builders and Kauai Builders' insurance representative Dick Ford were present at the meeting.

Board Member Bernie Sakoda recused herself from this matter as Mr. Maeda is the owner of the company that she works. Ms. Sakoda stepped out of the meeting for this matter only.

Acting Manager Ushigome gave the following report:

RECOMMENDATION:

It was recommended that the Board deny both requests of Kaua'i Builder's Ltd., who requested compensation for the cost to relocate the existing waterline and over-excavations for the generator building incurred due to weather-related causes for this project.

BACKGROUND:

Item 1: Relocate Existing Waterline (March 17, 2006):

The construction of the tank requires cutting into the hillside, requiring a 17' tall retaining wall to prevent the slope from falling back into the tank site area. Kaua'i Builders, contractor for the project, elected to build the tank before the retaining wall, opening the area and creating the slope instability situation. Conceivably, the slope may have held for a while until the construction of the retaining wall; however, the extreme rain preceded the wall construction, resulting in the slope failure. The decision to build the tank before the wall was totally made by the contractor.

The existing 6" waterline in discussion connects the tank and well site with Nursery Tank, located above and along the slope area that was cut away. This waterline is essential in supplying the upper Kalāheo community and more importantly, is critical in providing the pre-lube water for starting the Kalāheo wells. With the eminent slope failure, this waterline was in jeopardy of failing also. If that happened, not only would the wells be prevented from starting but the site would have been further flooded with the break of the waterline. We, therefore, contacted the contractor to find a solution before the waterline failed. We greatly appreciate the contractor and more significant was their grading subcontractor, Goodfellow Brother's cooperation and efforts to relocate and secure the waterline in the darkness of the night and during the rains, preventing what may have been total water outage for Kalāheo. However, as noted

previously, this situation would not have happened if the retaining wall was constructed in the first place.

Item 2: Over-excavation of the generator building (December 2005, prior to Item 1 above):

The contractor's schedule for the construction of the generator building was planned for October and November, 2005. Unfortunately, the wet weather at that time prevented the required compaction of the ground for construction to proceed. Ed Tschupp, the Department's manager at that time, elected to wait for the weather to clear and allow the ground to dry out instead of issuing a change order to proceed with the construction by over-excavating and importing select material. It was decided, at that time, that the Department had sufficient time to complete the project without incurring additional cost and, therefore, elected to grant time extensions instead of authorizing the over-excavation.

This situation was explained to the contractor and although commendable, it was the contractor's desire and decision to proceed with the additional work (and cost), without the Department's approval. Therefore, this additional cost should not be granted.

The meeting of July 11, 2006, referenced by Kauai Builders discussed the issue of moving forward and completing the project with the wet soil condition. Although the over-excavations were not agreed at this meeting, the discussion eventually lead to the Department agreeing to that option instead of waiting for the area to dry out on its own. That decision was for remaining work and should not be a reason to compensate the contractor for previous unauthorized work.

The contractor should be held accountable for their decisions, both to build the tank before the retaining wall (resulting in slope and eventual failure) and also, proceeding with the over-excavation of the generator building without authorization.

Board/Staff Discussion:

Mr. D. Fujimoto inquired on the rain, for the Builders' All Risk Policy requirements on who suppose to pay for it. Acting Manager Ushigome stated that the Builders All Risk was written into its contract but it was never secured, which was suppose to have been secured by the contractor. Mr. D. Fujimoto explained that this insurance policy is, generically, to provide coverage for work that is already done. During any type of natural disasters, this policy should insure and would address damages for work that was already paid for.

Waterline

Mr. Fujimoto stated that it was prudent for the contractor to take the necessary action to minimize his so-called exposure, as it is part of the construction requirement. It could have been worse if the waterline did break.

On query by Mr. Kahawai, Acting Manager Ushigome stated that the DOW does not determine on how the contractor proceeds with their work.

On query by Mr. Costa, Mr. K. Fujimoto stated that a similar case would be the building of Waimea Tank and the tank was also built first but the soil is rocky as compared to Kalaheo and that there was enough room if the contractor did want to build the retaining wall first and then the tank. Mr. D. Fujimoto concurred that there was enough room.

On query by Mr. D. Fujimoto, Mr. K. Fujimoto stated that the estimated cost of the relocation of the waterline was \$17,971.80. On query by Mr. Costa, Mr. K. Fujimoto stated that the total contract was for \$3.3 million. On query by Mr. Kyono, Mr. K. Fujimoto stated that the existing waterline did not fail as the contractor was notified that the waterline needed to be relocated.

Mr. D. Fujimoto stated that he stand corrected. Because it was water damage related, he assumed that Kauai Builders was trying to claim for compensation created by damage to an existing improvement but this was really totally something else. So this would have nothing to do with insurance. Mr. Ford stated that he was present at the Board Meeting just in case there were insurance questions.

Mr. D. Fujimoto stated that this becomes an issue of liability that is created by the work. By having to do the work, you assume some liability on protecting existing structures and that was really the issue.

Mr. Ford stated that this was after the 40 days and 40 nights of rain, which was an extraordinary situation. He felt that Kauai Builders took a prudent step in protecting the water system for Kalaheo town.

Testimony:

Mr. Maeda stated that as part of their bid, it was their decision to build the tank first as it is their procedure. He added that they did have protection of the waterline, which was shown in Photograph #17.

Mr. D. Fujimoto stated based on a photograph that Kauai Builders did not have to cut it so close to the edge. Mr. Maeda stated that in certain areas and especially in the area where it failed, there was about 8 feet from where they excavated to the waterline so they thought they were safe in that area.

Mr. Maeda stated for Mr. D. Fujimoto's information, that they tried to do the retaining wall in November of 2005 but they could not meet the compaction and that was reported back to the DOW. Mr. D. Fujimoto added that it would have been wiser to install the retaining wall during the summer months when it was dry. Mr. Maeda replied that they felt that the tank was a priority as compared to the retaining wall. Mr. Maeda felt that under normal circumstances, 2-3 days of rain would not affect anything; however, this occurred after the unusual situation of the 40 days and 40 nights of rain.

Mr. D. Fujimoto felt that all contractors have to assume some liability when they do work. Also contractors are liable to protect existing situations, like the waterline in this situation.

Mr. Oyama asked if anyone thought about doing a diversion of the water above the area. As a farmer, he would do that in order to prevent anything bad happening. Mr. Maeda stated that they did not think of doing that.

On query by Mr. Costa, Mr. Maeda stated that the relocation of the waterline happened just about at the end of the 40-day/40-night rain period. Mr. K. Fujimoto concurred that it was about the end of that rainy period. He also added that the damage costs were also submitted to FEMA for reimbursement but since it was a construction site, it did not qualify for reimbursements.

Mr. D. Fujimoto stated that he concurs that it was beyond the contractor's control of the 40 days and 40 nights of rain as far as the waterline relocation. He also commended Kauai Builders for placing the boulders to prevent further damage in the area.

Generator Building Footing Over-excavations

On query by Mr. D. Fujimoto, Mr. Maeda further explained about the 2nd request for reimbursement. They could not get the 95% compaction of the footings due to the type of clay dirt; therefore, their consultant suggested that they over-excavate, put in the gravel and compact it to get the required compaction. On query by Mr. D. Fujimoto, Mr. Maeda stated that they did not get approval for payment of the proposed over-excavation from the Water Manager. Their other option was to wait until the soil conditions dried out in order to achieve/meet the necessary compaction requirement. Mr. D. Fujimoto stated that if Kauai Builders had listened to the Manager as it was his call, and if it would still be a problem, then they could have been compensated. It is the owner's right to suspend work, which was the directive of the Manager then. Since Kauai Builders decided on their own to continue work and incurred that costs, Mr. D. Fujimoto could not agree with a reimbursement.

On query by Mr. Costa, Mr. Maeda stated that they decided to continue to work on their own as they had a large generator that was needed for this part of the project that was just sitting in their baseyard.

On query by Mr. D. Fujimoto, Mr. Maeda stated that the requested reimbursement for the Generator Building Footing over-excavation work was \$7,377.83.

Motion for temporary waterline

Mr. D. Fujimoto stated that he had changed his mind about the temporary waterline request for reimbursement. Therefore, Mr. D. Fujimoto moved that the Board approve the compensation to the contractor for the additional work due to the uncontrollable nature of this unique situation with the 40 days and 40 nights of rain, with the contractor showing good faith, seconded by Mr. Costa. Chair McCrory called for the question and all said aye, except Chair McCrory voted nay; motion was carried.

Motion for generator building footing over-excavations

Mr. D. Fujimoto moved to deny the request for reimbursement for the generator building footing over-excavations as the contractor had the option to wait and he elected on his own to continue to work and to make the job more convenient for himself, seconded by Mr. Oyama.

Mr. Costa asked, with the respect to when the decision was made to ultimately over-excavate and bring in the remaining gravel for the remaining building, when did that occur in relation to Mr. Maeda's answer. Mr. Costa stated that it is important to know that as with our engineering wisdom afterwards the DOW did it the way that we told Kauai Builders not to do it. Mr. Maeda was not sure but it may have been in June or July, 2006. Mr. K. Fujimoto concurred that it was probably the end of July, 2006. Mr. Costa stated that in his experience as an architect when he had used a soils engineer and clay was found, there was no option but to over-excavate and put in gravel. It is not an option to dry it out as once clay gets wet, it reacts differently again. Mr. Oyama pointed out that it is not clay and the dirt in Kalāheo is prone to landslides.

Mr. Maeda stated that it was an issue to compact the soil that is why they lowered the compaction from 95% to 85% as they could not meet the 95% rate.

Mr. Moises added that the Board needed to take into consideration that the fact that the generator building and parts of the retaining wall, that Kauai Builders excavated the footings and left it open to the weather elements (rain) for several days before compaction. This could have been a factor that they did not get their 90% required percentage. The DOW did inform Kauai Builders to wait but they did not.

Mr. D. Fujimoto stated that Kauai Builders should have written a request to the DOW about their situation to confirm that it was ok to proceed with the work instead of just proceeding with the work on their own and then coming back to the DOW for compensation. Mr. Maeda stated that they did ask the DOW to over excavate and submit a change order but the DOW denied their request.

Mr. D. Fujimoto stated that Kauai Builders also has the option of mediation, which is probably part of the contract. Mr. Maeda stated that the reason why this matter came up was because the DOW now approved their request as they initially suggested; therefore, he was at the meeting to request payment. Mr. D. Fujimoto added that Kauai Builders could have waited as the DOW would have paid them then. Since Kauai Builders went ahead and did the work without the DOW's approval, it is hard to say it is ok. Mr. Maeda stated that he did not expect to get paid when they went ahead and did the work.

Mr. Kyono asked a few questions: 1) On the soils report, how many actual samples or borings were taken on this site? Mr. K. Fujimoto did not know and would have to refer to the report that he did not have in hand; and 2) is the resurface soil uniform throughout the site due to the over-excavating? He felt that would be important. In answer, Mr. K. Fujimoto stated that he would also have to refer to the report; and 3) any of the work was done for the building that was over-excavated is it on a critical path for the project timeline? Acting Manager Ushigome stated that the generator building is ancillary to the tank.

Mr. Costa questioned on how many buildings (only the generator building?) were not approved with over-excavating? It was the tank, the road and the retaining wall. Mr. Costa also asked what was the justification to reduce the compaction to 85%? Mr. Maeda stated it was because the 95% could not be reached. Acting Manager

Ushigome added that the DOW was working with the contractor to get the optimum compaction percentage. Also on query by Mr. Costa, Mr. Moises stated that the optimum compaction percentage for the other buildings was not reduced. Mr. Moises added that the booster pump station and the retaining wall were approved to over-excavate and reduce compaction.

Mr. Kyono asked if Goodfellow Brothers had the option for the tank to wait till the grounds dried up or over-excavate. Mr. Moises stated that they consulted with the soils engineer and at their own cost went ahead and did the job. Thereafter, doing the generator building, Kauai Builders checked with the soils engineer and requested to over-excavate since Goodfellow Brothers did that with the tank. The DOW at that time told them that they could go ahead at their own expense. One year later in summer 2006, they faced the same problem again so they met and re-evaluated and the DOW decided to pay for it. Mr. Moises added that it should be noted that the entire wall was done. In about July, 2006, Geolabs was consulted and stated that if Kauai Builders cannot meet the 3,000 pounds per square foot on the bearings capacity, then they would have to over-excavate; they took away the 90% compaction.

Mr. Kyono confirmed with Mr. Moises that the contractor had the option of over-excavating at their own expense or wait till the area is dry.

Motion was carried.

Mr. Maeda thanked the Board and he, Mr. Ford, and Mr. Nakamura all left the meeting at about 12:20 p.m.

Re: Request to Testify by Doreen Stone to Request Board Approval to Waive Building Permit Condition, Building Permit No.06-535, 6327-B Opaekaa Road, CPR Unit 2, Opaekaa Farms Condominium, Lot 4, TMK: (4) 4-2-06:039, Wailua Homesteads, Kaua'i, Hawai'i

Jason and Doreen Stone and Ms. Stone's mom, Agnes Uchizono, were present at the meeting.

Acting Manager Ushigome gave the following report:

Recommendation:

The Department recommended that the Board not approve Ms. Stone's request to waive the condition to complete construction of a second water meter for a dwelling unit on the subject property. Although the applicant has satisfied most of the DOW conditions to provide water meter service for CPR Unit 2, Lot 4 to service a dwelling unit, the construction the second water meter service is not completed and the DOW has not issued a "Certification of Completion".

Background/ Findings:

Ms. Stone submitted a written request (her letter dated March 27, 2007 was given to the Board) for a second water meter to service Lot 4. Lot 4 is currently a 2-unit CPR. The existing water meter is assigned to CPR Unit 1. Ms. Stone intends to build a

dwelling unit on CPR Unit 2 and was required to install a separate water meter service for CPR Unit 2.

The DOW informed Ms. Stone by DOW letter dated April 2, 2007 that prior to building permit or water meter approval for a second water meter to CPR Unit 2, the applicant is required to:

1. Pay the applicable charges in effect at the time of payment to DOW. At the present time, these charges include the Facilities Reserve Charge (FRC) of \$4,600.
2. Prepare and receive DOW approval of construction drawings of the necessary water system facilities and construct said facilities. These facilities shall include but not be limited to the domestic service connection and the interior plans with the appropriate backflow prevention assembly, if applicable.

Ms. Stone paid the required FRC charge on April 27, 2007.

Ms. Stone also completed and received DOW approval of the construction drawings for the second water meter for CPR Unit 2 at Lot 4. However the construction and conveyance of the water meter service has not been completed to date. Ms. Stone has stated that the contractor estimates that the meter construction will take four to six weeks. Ms. Stone did not provide an estimated date of completion.

Until the DOW issues a "Certification of Completion" notice for the construction of the water meter, the DOW is not able to certify that County water service is available and is not able to approve the building permit for Ms. Stone's proposed dwelling unit.

Testimony

Ms. Stone gave some background that her building permit has been signed off by all of the other departments with only the DOW left. She has paid the FRC charge and has contracted with Hawaii Pacific Trenchless to do the digging of the trench to install the meter and have paid a 75% deposit to them. She is now waiting on the final approval of her road permit plans from the Engineering Division at which time they would have a pre-conference meeting with her contractor and Mr. Inouye of the DOW. Prior to her having the DOW sign off on her building permit plans, the water meter installation must be constructed and completed by a contractor and then inspected by the DOW. Then her final paperwork would be due at the DOW for her conveyance of the facilities, etc. in preparation for our next Water Board Meeting. She stated that her contractor is really busy to do the work, which would delay them for awhile, which would also delay their meeting the deadline of an upcoming Water Board Meeting to complete their conveyance documents. Therefore, she requested that the Board waive the requirement to have her water meter installed before the DOW signing off on her building permit plans, with the knowledge that she is fully committed to install the water meter and the follow-up paperwork since she had put a large deposit down.

Mr. D. Fujimoto first of all commended Mr. Fujikawa, who recommended that the Stones come before the Board as it shows his commitment to help the customer. Secondly, he brought up that Ms. Stone's request would be very difficult to approve as there would be no way that the DOW could stop them from moving in their house even if the work is not done. He added that once the building permit is signed, there is no

provision in the Certificate of Occupancy that could have the County stop them from moving into their building. Mr. Fujimoto felt that it would set a bad precedent with the question being who would keep track of these situations and what else that still needs to be done.

Board Chair McCrory expressed her concern of the suggested route of initially filing for a foundation permit so that construction can start as it would set a bad precedent as there will be a lot of people going before the Board with this same request and it would be onerous on the DOW to keep track of all of it.

Mr. Fujimoto stated that the DOW would extend their 1-year time requirement in order for the Stones to complete their project and felt that the waiver would not be in the best interest of the DOW.

Board and staff gave the Stones a heads up on all that needed to be done so they can have everything done as early as possible to ensure that the signing of their building permit could be done shortly after the completion of the construction of their water meter.

Mr. Costa moved to support the staff's recommendations and deny this request, seconded by Mr. Oyama; motion was carried.

Mr. and Mrs. Stone and Mrs. Uchizono left the meeting at about 12:35 p.m.

Lunch Recess: 12:37 p.m. to 1:10 p.m.

OLD BUSINESS

Re: Discussion and Action Steps concerning Selection Process for new Manager and Chief Engineer of the Kaua'i County Water Department 1) Water Manager's Salary Update and 2) Contract Hire to Assist the Acting Manager

- **Water Manager's Salary Update**

Acting Manager Ushigome gave the following update:

On May 1, 2007, the Governor approved and signed HB1750 HD2 SD1 into law, effective July 1, 2007. Act 052 amends HRS 78-1 and allows all elective and appointed persons seeking employment with the government to become residents of the State within thirty (30) days after beginning their employment. (A copy of Act 052 was given to the Board for their information.)

As a follow up on the status of the Salary Commission's recommendations, the Commission submitted their report and resolution proposing an ordinance amendment relating to Executive salaries to the County Council. The Salary Commission's communication was received by the Council at its May 2, 2007 Committee Meeting. (for the Board's information and review was a copy of the Salary Commission's Report dated April 18, 2007 and Resolution.)

Board Chair McCrory added that she has an appointment with the Mayor today to discuss the salary recommendations by the Salary Commission.

Board Chair McCrory wanted to have a new manager ad to be published by the end of July, 2007 in all of the same areas of advertising and to incorporate the findings by the Salary Commission of the new salary ranges.

- **Contract Hire to Assist the Acting Manager**

Finalized a scope of services and criteria to begin negotiations with the provider. RW Beck provided a draft list of duties and activities to assist with formulating a scope of work.

Mr. Kyono moved to receive this report for the record, seconded by Mr. Oyama; motion was carried.

NEW BUSINESS

Re: Request Board Approval to Hire Special Counsel to Provide Advice, Counsel, and/or Representation in Civil Matters in the Court System including, but not limited to Administrative Law, Personnel Law, Labor and Employment Law

Recommendation:

It was recommended that the Board approve funding of \$25,000 to hire special legal counsel to advise, counsel and/or represent the Department and Board, in matters including, but not limited to Administrative Law, Personnel Law and Labor and Employment Law.

Funding:

Account No. 27, Contractual Services:.....	\$25,000.00
TOTAL	\$25,000.00

Background:

The Department recently advertised a professional services solicitation. We requested proposals for special counsel services and we will be following procurement procedures to enter into a contract pending funding approval. The deadline for providers to submit a statement of qualifications (SOQ) in response to this solicitation is May 17, 2007.

Mr. Costa moved to approve the hiring of special counsel, seconded by Mr. Kyono; motion was carried.

Re: Grant of Easement from Wind Ridge Island Properties, LLC for Easement 13 and A-2, affecting Portion of Lots 88 and B, respectively, Koloa, Kauai, Hawaii

It was recommended that the Board approve the Grant of Easement document; whereby, Wind Ridge Island Properties, LLC grant to the Board of Water Supply, County of Kaua'i:

1. Easement 13, on, over and under that certain parcel of land located in TMK: (4) 4-8-014:32; Koloa, Kauai, Hawai'i.
2. Easement A-2, on, over and under that certain parcel of land located in TMK: (4) 4-8-014:32; Koloa, Kauai, Hawai'i.

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 12" WATERLINE ALONG HAPA ROAD, WELIWELI ROAD AND KOLOA ROAD, construction drawings prepared by Esaki Surveying & Mapping, Inc. for the Kiahuna Makai Subdivision (S-2004-16) and Wai'nani at Kiahuna Subdivision (S-2004-48), 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 this Grant of Easement with the indemnification, seconded by Mr. Costa; motion was carried.

REPORTS

FINANCE COMMITTEE

Finance Committee Chair Steven Kyono called the Finance Committee Meeting to order at 1:20 p.m.

Re: Claims Payable:

WATER UTILITY FUND:...	\$ 991,094.75
BOND FUND:	\$
FRC FUND:	\$ 301,727.94
STATE FUND:	\$ -0-
TOTAL	<u>\$1,292,822.69</u>

Mr. Fujimoto moved that the claims be approved for payment, seconded by Mr. Costa; motion was carried.

Board Chair McCrory added that she wanted to add for Finance Committee approval of back payments due to RW Beck in the amount of \$289,633.29, which included their projects for the first half of Affordable Housing, Strategic Plan (Water Plan 2020) and Sustainability Plan.

Mr. D. Fujimoto stated that if the Department had questions about the billings that we should work with RW Beck to possibly pay at least a partial payment.

Mr. Fujimoto moved to amend his first motion to also include the approval of RW Beck's payments, seconded by Mr. Costa; motion was carried.

Re: Proposed Budget for Fiscal Year 2007-08

The Proposed Budget for Fiscal Year 2007-08 was submitted at the Tuesday, May 15, 2007 Board Meeting.

The process to review, finalize and officially approve the Department of Water's budget is as follows:

1. A separate Finance Committee Meeting was scheduled for Tuesday, May 29, 2007 at 11 a.m. at the DOW's Micro Lab Board Room to discuss the details of the proposed budget. The budget meeting will be held at the DOW's Micro Lab, 2nd Floor Board Room.

All Board members were invited to attend the Finance Committee Meeting.

2. The final budget needs to be approved at the June 19, 2007 Board Meeting.
3. A resolution to reconcile the actual balances within the budget (a budget reconciliation resolution) needs to be approved at the Board's August 21, 2007 Meeting.

The Finance Committee Meeting was adjourned at 1:30 p.m.

REPORTS

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

No discussion.

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

Kuleana Show: The Kuleana Show featuring the DOW aired on Channel 53 from April 20-26, 2007. It was a very informative program, covering an overview of the department. Information was shared as follows: Administration and General DOW information by Wynne Ushigome, Water Resources & Planning by Gregg Fujikawa, Design & Construction and Special Projects by Bruce Inouye, Operations by Bill Eddy, Water quality testing and Water Quality Reports by Carl Arume, Fiscal-Accounting and Billing by Paul Ganaden, All Introductions and Water Conservation by Faith Shiramizu. Everyone did an excellent job, not only sharing interesting

information, but the unintentional humor was priceless. This group should be commended for their efforts.

Community: The CAK Home Show with its “Build Green” theme provided a wonderful opportunity to remind the public of the need to conserve water. After providing a water conservation tip, we allowed people to spin the wheel to win one of the prizes that included low flow showerheads, water hose nozzles, aerators, buckets, and rulers, with water conservation as the focus. This made it fun, yet forced them to think about water conservation. Mahalo to our dedicated volunteers, Keith Konishi, Mona Yamauchi, Amy Esaki, Vicki Kobayashi, Emi Tanihiro, Clarita Remigio, Gregg Fujikawa, Fay Tateishi, Wynne Ushigome and Keith Fujimoto. Mahalo also to Jerry Nishek, East Kaua’i Soil & Water Conservation Chair who did a fabulous job of sharing water conservation techniques from using mulch to irrigation systems with rain sensors or an Evapotranspiration System remote control. Jerry also shared a list of drought resistant plants and fielded questions from the audience.

In May, DOW will be at the Koloa Elementary School Career Fair.

American Water Works Association (AWWA), Hawaii Section: AWWA, HI Section Annual Conference will be on Oahu, May 23-25, 2007. Our women’s pipe tapping team, Ka Wai Wahine, continue to practice, improving their time and technique.

Employee Events: Our County **Relay for Life** team did a fabulous job!! Total raised was **\$10,050.00!!** Wynne was our DOW representative, receiving donations from employees, friends and family. The next county Employee Council event is the **Visitor Industry Charity Walk (5/19)**, then there is a break for summer until the Employee Picnic in August.

The Great Weigh Out team, Politically Challenged V (PCV) continues to make a great showing in the standings. At last report, they were holding first place in Category 2, which is the number of guests invited to activities and classes. (Clarita is our DOW team member, who is also the leader in this category for the PCV team. Great job Clarita!)

Our “Pupule Bowling” has been postponed; a new date will be selected.

Drinking Water State Revolving Fund: The executed Drinking Water Treatment Revolving Loan Fund (DWTRLF) Final Loan Agreement for the Poipu Road 16” Main Replacement has been received. Progress Payment Requests for over \$4 million is being prepared.

Project WET: The Project WET Teachers Workshop on Saturday, May 12, 2007 at the Bishop Museum, with the maximum of 15 registered teachers and a waiting list of 5, (ranging from elementary through high school). This is a good indication that we will be able to conduct more workshops and nurture the program to grow in our schools.

Pipetapping Team: The women’s pipetapping team is practicing hard for the AWWA National Conference contest.

Re: Manager’s Update for April, 2007 to May, 2007

CONTRACTS AWARDED BY THE MANAGER:

Re: Job No. 03-02, Phase I, A-04, KW-06, Anahola 0.15 MG Tank and Kekaha Shaft 12 Renovations, Anahola and Kekaha, Kaua’i

Funding:

Job No. 03-02.....	\$1,365,000.00
Proposal by TOMCO CORP.	\$1,232,068.00
Contingency (approximately 5%)	\$ 61,932.00
Total Funds Required:.....	<u>\$1,294,000.00</u>
Balance Remaining:.....	<u>\$ 71,000.00</u>

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

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

Affordable Housing Task Force Projects Update:

1. DHHL – Anahola Residence Lots Unit 6, Pi’ilani o Kekai, Phase 1: DHHL working with Planning on their subdivision agreement request
2. Habitat - Eleele I Luna Subdivision Phase 1: Council, Planning, Public Works and Habitat’s representative Stephen Spears reviewing the park requirements for Phase 1 of the subdivision. Habitat is considering revising the subdivision map for Phase 1 to include the park (Lot #16).
3. Hookena at Puhi- DOW reported that the Board approved with conditions Grove Farm’s request to allocate the water meters for Hookena prior to completing the booster pump station and waterline improvements. Generally the conditions included:
 - Grove Farm will install, operate and maintain an emergency booster pump to pump water from the Lihue system to the Puhi system until the permanent booster pump and pipeline is completed.
 - Grove Farm will submit consumption information to verify their proposal that the emergency booster pump will be sufficient to provide adequate water sources I the interim.
 - Grove Farm will complete the permanent water improvements in four (4) months.
4. Kauai Lagoons – Kapule Project: No progress since last month.
5. Kauai Lagoons – Waipouli Courtyard- DOW approved construction drawing on March 14, 2007. Building Division reported that Kaua’i Lagoons submitted revised building plans. Public Works reported no fees were received. DOW recommended Kaua’i Lagoons contact the DOW Manager on their request to

execute a bonding agreement so the Department can approve the building permit. Outstanding items include the Kaua'i Lagoon's request to use a Waiver, Release and Indemnity (WR&I) agreement (including posting a bond) with the Department.

6. KEO Transitional Housing Project Phase I & II: Phase 1 is completed. Phase II: DOW approved building permit for Phase II; however, certification of occupancy will not be issued prior to the completion and acceptance of the water system improvements. DOW reviewed and approved water meter plans; waiting for final tracing to be submitted.
7. Kalepa Village Phase III & IV – DOW approved the building permits for Phase III-40 unit multi-family development.
8. Princeville Employee Homes: No report
9. Kukui'ula Employee Housing: No report
10. Kohea Loa (Hanama'ulu Triangle): No report
11. County-State parcel affordable housing projects: Kekaha, Kaapuni, Mahelona, Hundley Project sites: No report

2007 Legislative Summary: (Update as of May 6, 2007, compliments of Chair McCrory)

- | | |
|---------|---|
| HB 1689 | Appropriates funds for capital improvement projects for the 14 th , 15 th and 16 th representative districts – No monies appropriated this year, DOE received the funding, recommended the Department work with DOE for the various school waterline improvement projects. |
| HB 399 | Sets up a \$500K appropriation for the Soil and Water Conservation Districts with an effective date of July 1, 2007. Transmitted to the Governor. |
| HB 400 | Appropriates a total of \$4 million for drought mitigation projects in counties, to be funded to DLNR. (See SB 847). Amended to be \$4 million and effective date of July 1, 2007. Transmitted to the Governor. |
| HB 421 | Expands short-term investment of County moneys to include Commercial Paper and Bankers' Acceptances. Transmitted for signature, Governor signed on April 18, 2007, is now Act 024. |
| HB 1909 | Establishes ethics requirements for legislation, state officials, employees, and lobbyists. Forwarded to conference committee, DEAD. |
| SB1950 | Permits rehiring of retirants of state and county government as permanent employees without affecting the retirants' retirement benefits, one year after they have retired. Forwarded to conference committee. DEAD. |

Board and Commission Training:

Just a reminder for the Board on the upcoming generic optional board/commissioner training. Board and commission members can select any session, based on their schedules. Tentatively, there are three (3) training sessions scheduled for the Lihu'e Civic Center, Moikeha Building Meeting Rooms 2A and 2B as follows:

May 23 rd	11:30 – 1 pm
May 30 th	4:30 – 6 pm
June 6 th	8 – 9:30 am

Re: Summary Report of Monthly Operational Maintenance

This report is to give the Board an overview of the maintenance that the Shop personnel had done the previous month. Our Operations Division is working to fine tune this report to be more informative.

Mr. Oyama moved to receive all of the above Reports for the record and place on file, seconded by Mr. Costa; motion was carried.

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

Tom Jacobs and Mark Salmon from RW Beck were present at the meeting to discuss and elaborate on the implementation action items as follows in their status report.

Acting Manager Ushigome gave the following update:

Employee Training:

Hawaii Employers Council (HEC) conducted the first of three, 1-day supervisory training sessions on May 3rd. The training program consists of a total of six sessions. Each day is divided into two sessions, the May 3rd morning session covered "Basic Supervision and the New Supervisor" and the afternoon session covered "Employment Laws and Related Rules". This initial training was conducted by Cynthia Tanaka and was very informative.

The next training sessions are scheduled for Thursday, May 17th and Monday, May 21st, the topics are "Correcting Poor Performance, Investigation & Documentation (Performance Appraisals) and Harassment Avoidance.

Water Plan 2020 Sustainability Program Implementation Plan:

No further progress or updates to report at this time.

Acting Manager Ushigome reported that although RW Beck's WP2020 Sustainability Plan has been submitted to the Board, the Board has not thoroughly reviewed and accepted the Plan. In addition, in her opinion, the Department's staff has not "bought in" to the Plan. She recommended that prior to the Board accepting the Plan; the consultants need to address this critical issue before moving on. Based on the Department's insights and comments, the Plan may need to be revised accordingly.

Mr. D. Fujimoto stated that the Board and Department would need to tie together on the implementation of the Plan and what is the Department's financial plan.

Board Chair McCrory stated that this matter should be discussed in another meeting. Mr. Fujimoto concurred and that the consultant should walk the Board and staff through the process instead of only reviewing it. He would be ready to commit a whole day to a meeting, as it is a big commitment to do the Sustainability Plan.

The Board decided to do a workshop with the RW Beck, the time to be determined once RW Beck's personnel is able to attend this workshop. Mr. D. Fujimoto requested that RW Beck do a Powerpoint presentation that would tie in all of the revenues and expenses. It was hoped that a workshop could be done sometime in June, 2007.

Strategic Plan Implementation:

Mr. Tom Jacobs reported that he and Lynn Adams have been working with the staff for 1-1/4 months in March and April, 2007. They have also been supporting several plan implementation items with the staff in their Denver and Seattle office of RW Beck such as the Comprehensive Employee Manual, etc. Plan implementation can now be characterized as well underway with many action items planned or initiated or completed as summarized below:

The following highlights items from April-May, 2007:

- ✓ *Time Entry Assessment.* Summary report issued; highlights opportunities to improve the time entry process in alignment and support of the Strategic Plan. Issues Champions/R.W. Beck will now integrate these recommendations into the Task Plans and assign implementation.
- ✓ *Supervisor Training* is underway. Scheduled for three full-day session during May consisting of six modules tailored to DOW's needs (including Union contracts) and emphasizing accountability. Broader training plan under development.
- ✓ A specific Task Plan for recruiting and hiring developed for immediate implementation, which was given to the Board for their information. Includes recommendations for broader advertising of position openings including web postings and trade journals.
- ✓ *Comprehensive Employee Manual* drafted and under review by HEC, Mayor's Office and County Attorney. County Personnel Director was briefed during a meeting in April. Scheduled to be sent to Unions for review on May 17th in preparation for distribution to all staff during June employee sessions.
- ✓ *Salary Survey* prepared.
- ✓ Initial research underway related to RFP preparation for the development of a comprehensive, actionable Facilities Plan.

Progress on these and other items specified in the Task Plans were noted in the updates. (Note that a ✓ in the Task Plan "Dates" column indicates task or element completion.)

Board Chair McCrory intervened and apologized as she requested that Mr. Jacob's report be continued after Executive Session because there will be a quorum problem soon when some of the Board members would have to leave the meeting; therefore, she reordered the Agenda to move up Executive Session on the Agenda and to continue the Strategic Plan Implementation report thereafter.

EXECUTIVE SESSION:

Pursuant to Hawaii Revised Statutes (HRS) §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 HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

1. **Review of Executive Session Minutes: April 17, 2007** (This was not done.)
2. **Executive Session Meeting**

Pursuant to Hawaii Revised Statutes (HRS) §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 HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

- ES-1:** 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 Kauai Builder's request to resolve a Payment Conflict on Job No. 94-3, Kalaheo 0.5 MG Reservoir, Booster Pumps & Connecting Pipelines, Kalaheo, Kaua'i.

This matter was handled in Regular Session.

- ES-2:** Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to receive a briefing and to consult with legal counsel and the Department's consultant and staff on the Time Entry Process Assessment Project and potential privileges and liabilities of the Department as it relates to the project.

The briefing and 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.

This matter was discussed in Executive Session.

- ES-3:** Pursuant to Haw. Rev. Stat §§92-4 and 92-5(a)(2), the purpose of this executive session is to consider the Job Performance Evaluation of the Department of Water's Acting Manager and Chief Engineer. This deliberation involves personnel matters affecting the privacy of the Acting Manager and Chief Engineer.

This matter was deferred to the next Board Meeting.

Chair McCrory read the Executive Meeting Session notice for ES-2 only, Time Entry Process Assessment Project, to be discussed in Executive Session. There was no public testimony. Mr. Costa moved to enter into Executive Session at 1:53 p.m., seconded by Ms. Sakoda; motion was carried. The Regular Meeting reconvened at 2:18 p.m.

Strategic Plan Implementation (cont'd):

Mr. Jacobs reconvened his presentation on the Strategic Plan Implementation and discussed the Comprehensive Employee Manual. The manual would consist of personnel benefits, work directives that the employees are expected to perform their work under.

Mr. Jacobs also reported an overview of the Time Entry Assessment Study by Moss Adams. This study was part of the Strategic Business Plan process to review gathering time for payroll and cost accounting purposes. This study deals with 4 out of the 5 issues in the Strategic Plan:

Time Entry Assessment

Consistent with the Moss Adams Board presentation on April 17, the findings contained in the report (included in the Board packet) are designed to yield direct and tangible benefits for the organization. The report can be classified into the following categories:

- Process and procedures
- Management tracking tools
- Monitoring activities
- Scheduling
- Training
- Communications

In order to allow direct integration into the initiatives underway from the 2007-2012 Strategic Business Plan implementation efforts, the findings and recommendations have been further sorted to demonstrate how they allow with four of the issues from the plan:

- Issue 1 – The Department’s morale must be improved.
 1. Recommended that a DOW personnel with authority should be designated to thoroughly understand the union bargaining contracts as related to time management and its issues. Mr. Kyono added that the County’s Department of Personnel Services (DPS) would be able to support us with the union bargaining contracts as it is their job to know that.
 2. He added that the employee manual would remind the staff that they need to understand the significance of signing off on time sheets and the accountability that goes with their signature.
 3. Having a qualified workforce reiterated the issue of the need to hire a Manager.

- Issue 2 – A strong and qualified workforce must be attracted and retained.
- Issue 4 – Workplace efficiencies must be improved.
 1. It was strongly recommended that an automated time entry system needed to be initiated, instead of doing it manually.

Board Chair McCrory stated that she thought there were issues with the union of using this type of automated system. Mr. Kyono concurred that the union would not allow any type of automated system that would make the employees punch in and out. Acting Manager Ushigome added that she has been trying to contact the Hawaii Health System to see their pilot program that was implemented as they also have United Public Workers (UPW) union workers.

- Issue 5 – Accountability and commitment must be instilled throughout the organization.
 1. All payroll questions, difficulties or improprieties came up during the payroll cycled that it should be logged and a record kept on how it came to be and how it came to be resolved. This would enable staff to consistently handle similar type of situations, especially when different staff may handle these matters that come up.

Mr. Jacobs summarized that if the Board agrees to all of these recommendations, it would be incorporated into the Strategic Plan process and task plans would be developed so it could be proceed to implementation within the DOW. The recommendations would be worked on a priority basis.

Board Chair McCrory inquired about Workplace Efficiencies, Item Nos. 11 and 12 on Page 7.

On query by Board Chair McCrory, Mr. Jacobs stated that there is software out there that could schedule and track projects; one for example is Microsoft Projects. He added that there is Primavera software, which would probably be too complex for a smaller organization like the DOW.

On query by Board Chair McCrory, Mr. Jacobs stated at this point he would suggest that they would incorporate all the recommendations into the Plan process for now. Some of the recommendations that may evolve later would be to purchase new software, refiguring MPET, etc. Then the Board could be approached to request for money or manpower.

Mr. Mark Salmon reported on the following:

Affordable Housing Projects:

Kapilimao Tank:

Work underway: final design is proceeding, environmental assessment

Work ahead: complete final design, construction

Current Major Area of Focus: environmental assessment, 35% design submittal is due this month.

Potential obstacles: none currently
Tentative Date Project in Service: December 2008

Amfac Shaft 11:

Work underway: pump testing procurement, final design procurement
Work ahead: final design, environmental/permitting, construction
Current Major Area of Focus: Bids were received April 16th for field pump testing phase: contract award
Potential Obstacles: water quantity and quality unknown – testing pending
Tentative Date Project in Service: December 2008

Mr. Salmon reported that the investigation of the potential for an early start to AMFAC Shaft 11 Renovation final design was in April. Brown and Caldwell is estimating the amount of time that would be saved and the fees that would be at risk if final design is started in advance of completing field pump testing. A report is expected the week of May 7th. A recommendation is expected to be to proceed with the early start.

Kapahi 1.0 MG Tank:

Work underway: preliminary design, easement acquisition
Work ahead: final design, environmental/permitting, construction
Current Major Area of Focus: easement acquisition, contract execution for final design
Potential obstacles: easement acquisition from private landowner
Tentative Date Project in Service: March, 2009
(Working with staff to look for alternatives of doing other tank options to eliminate the negotiations with the neighboring landowner; however, at the same time, it was also recommended to continue to work with the neighboring landowner to see whether he would sell his land to the DOW.)

Kapa'a Homesteads 0.5 MG Tank:

Work underway: easement acquisition
Work ahead: construction
Current Major Area of Focus: DLNR land transfer is still pending to be on the Land Board's agenda, which will probably be at one of their meetings in June, 2007. Mr. Salmon will call DLNR to remind them about putting the land transfer on their agenda. Once it is approved, advertisement for bids can follow shortly thereafter.
Potential obstacles: none currently
Tentative Date Project in Service: July 2008

Kapaa Homesteads Well No. 4:

Work underway: design consultant procurement still pending
Work ahead: well design, environmental/permitting and construction
Current Major Area of Focus: consultant procurement
Consultant Review and Selection Committee was formed with DOW staff the week of April 2nd for procuring design services for Kapaa Homesteads Well No. 4. Committee recommendation to the Manager is pending. The scope and contract was drafted the week of April 30th.
Potential obstacles: none currently
Tentative Date Project in Service: December 2008

Akulikuli Tunnel:

Work underway: final design contract execution with notice to proceed soon

Work ahead: final design, environmental/permitting and construction

Current Major Area of Focus: final design contract execution

Mr. Salmon just found out prior to this meeting that if the consultant contract for the Akulikuli Tunnel is an amendment to the current contract then it is ok; however, if it is a new contract, the whole procurement process would need to start over. He will meet with Waterworks Legal Advisor Amy Esaki to work this out.

Potential obstacles: water quantity and quality unknown – testing pending

Tentative Date Project in Service: December 2008

On query by Chair McCrory, Mr. Jacobs stated that they would be assisting with an engineering recruiting program.

Chair McCrory brought up as a reminder that Personnel Assistant Debra Togioka needed to submit draft postings for Lynn Adams (RW Beck) to review. Mr. Jacobs added that he would be meeting with the Department of Personnel Services (DPS) on the County's hiring practices as they have the ultimate approval. He and Acting Manager Ushigome would meet with the Personnel Director to see what can be changed or do differently to facilitate the hiring process. To be discussed would be hiring at a range or shortage differentials. Hiring at a range is the preferred way to go as you keep the higher salary; however, once a shortage is over, your shortage differential pay is decreased.

On query by Chair McCrory, Mr. Jacobs stated that the Department needs engineers more than engineering techs; however, Acting Manager Ushigome stated that engineering techs would be helpful to do the miscellaneous work that the engineers have to do now and then they can focus more on the engineering work.

Mr. Kyono moved to receive for the record, seconded by Mr. Oyama; motion was carried.

ADJOURNMENT: There being no further business, Mr. Oyama moved to adjourn the meeting at 3:00 p.m., seconded by Mr. Kahawai; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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