

**BOARD OF WATER SUPPLY of the COUNTY OF KAUA'I**

**REGULAR MEETING**

Second Floor, Microbiology Lab Bldg  
Kaua'i County Department of Water  
4398 Pua Loke Street, Līhu'e, Kaua'i, Hawai'i 96766

**THURSDAY, NOVEMBER 13, 2008**

**10:05 a.m.**

or thereabouts

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. ACCEPTANCE OF AGENDA**

**D. MEETING MINUTES:**

1. Public Hearing: October 9, 2008
2. Regular Meeting: October 9, 2008
3. Special Meeting: October 21, 2008

**E. CORRESPONDENCE/ANNOUNCEMENTS**

**F. OLD BUSINESS**

1. Status Report from Kukui'ula Development Company (Hawai'i) LLC on their Projects: 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
2. Request Board Approval to Clarify the Motion made at the December 13, 2007 Board 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"
3. Request to Testify by Mr. James Hasenyager on Private Water System for Brydeswood Agriculture Subdivision Phase II (S-93-50) and Phase III (S-2006-04), TMK: 2-4-007:002 & 020, Kalaheo, Koloa District, Island of Kaua'i

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**F. OLD BUSINESS (cont'd)**

4. Request Board Approval for Additional Funding for Contract 474 for Special Counsel to Provide Advice, Counsel, and/or Representation in Civil Matters in the Court System including, but not limited to Administrative Law, Personnel Law, Labor and Employment Law
5. Follow up on Annual Job Performance Evaluation for Acting Manager & Chief Engineer
6. 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

**G. NEW BUSINESS**

1. Resolution No. 6 (08/09), Make-A-Splash 2008 Water Festival
2. Request to Testify by Judy Ta'afuli Webb for the Niumalu Paradise Condominium Association by the Developer Niumalu/Nawiliwili Community Planning Project, TMK: 3-2-03:58, Units 1 thru 13, Niumalu, Lihu'e, Kaua'i
3. Request Board Approval for an Agreement to Allow Mr. Michael Fernandes Authorization to Continue Maintenance of the Department's (inactive) Nonou 0.2 MG Tank Site, Wailua, Kaua'i
4. Request Board Approval of the Proposed Amendments to the Rules and Water System Standards, as Amended, of the Board of Water Supply, County of Kaua'i, State of Hawai'i
5. Request Board's Approval of the Capital Improvement Projects (CIP) Projects for Next Year's Legislative Session
6. Resolution No. 5 (08/09), Legislative Budget for Fiscal Year 2009-10
7. Request Board Approval of a Conveyance of Water Facility from William D. Medeiros and Kevin McKeown for the Second 5/8-Inch Domestic Service Connection for TMK: (4) 2-7-04:017, Unit 1, Koloa District, Kauai, Hawaii
8. Board Discussion on Setting 2009 Goals
9. Year 2009 Tentative Board Meeting Dates

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**G. NEW BUSINESS (cont'd)**

10. Request Board Approval for an Amendment to Contract No. 479, Job No. 02-24 (WK-2), Renovate Akulikuli Tunnel, Phase 2, Wailua-Kapa'a Water System, Kapa'a, Kauai, Hawaii
11. Conveyance of Water Facility from NICE, LLC, a Hawaii Limited Liability Company; for Nani Estates (S-2007-41), TMK: (4) 4-6-15:011, 134, 135, 136, 137, 138, 139, 140, 141 and 142, Kapaa, Kawaihau District, Kauai, Hawai'i
12. Conveyance of Water Facility from Dennis S. Yamaguchi, Madeline M. Yamaguchi, Joy O. Yamaguchi, Scott L. Yamaguchi and Lisa M. M. Yamaguchi; for the Water Meter for Lot 82-E-2, TMK: (4) 4-6-07:122, Kapaa, Kawaihau District, Kauai, Hawai'i
13. Conveyance of Water Facility from David Henderson Brown, Trustee of the David Henderson Brown M.D. Inc., Money Purchase Pension Plan (001) and Anne Wilmpje Kalff Brown, Trustee of the David Henderson Brown M.D. Inc., Money Purchase Pension Plan (001); for the Installation of Water Meter and Backflow Preventer for Parcel 2, TMK: (4) 3-6-07:002, Lihue District, Kauai, Hawai'i
14. Conveyance of Water Facility from Kukuiula Development Company (Hawaii), LLC, a Hawaii Limited Liability Company; for the Poipu Road Roundabout (S-2004-45), TMK: (4) 2-6-15:019, Koloa, Kauai, Hawai'i
15. Conveyance of Water Facility from Kukuiula Development Company (Hawaii), LLC, a Hawaii Limited Liability Company; for the Western Bypass Road (S-2004-45), TMK: (4) 2-6-15:018 and (4) 2-6-15:019, Koloa, Kauai, Hawai'i
16. Conveyance of Water Facility from McBryde Sugar Company, Limited, a Hawaii Corporation; Kukuiula Development Company (Hawaii), LLC, a Hawaii Limited Liability Company; and Kukuiula Development Company, Inc., a Hawaii Corporation; for the Offsite Western Bypass Road (S-2004-45), TMK: (4) 2-6-03:Por 35; (4) 2-6-15:018; (4) 2-6-03:Por 1; and (4) 2-7-03:009; Koloa, Kauai, Hawai'i
17. Conveyance of Water Facility from James Gair, Ulrich H. Rachner, Trustee of the Ulrich H. Rachner Revocable Trust, Michael C. Walsh and Judith H. Lang, for the Silver Falls Estates II (Units 3, 4, and 5), TMK: (4) 5-2-22:025, Hanalei, Kauai, Hawai'i

**NOTE: Special Accommodations for persons with disabilities are available upon request five (5) days prior to the meeting date. Please call the Department of Water, County of Kaua'i, at 245-5408 or drop by at 4398 Pua Loke Street, Līhu'e, Kauai. Our mailing address is P. O. Box 1706, Līhu'e, HI 96766.**

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**G. NEW BUSINESS (cont'd)**

18. Conveyance of Water Facility from Omao Ranch Lands, LLC and Thomas D. Lyles, Trustee of the Lyles family Trust Dated May 28, 1989 and Alice W. Lyles, Trustee of the Lyles Family Trust Dated May 28, 1989, TMK: (4) 2-7-03:005 and 006, Omao Road, Omao, Kauai, Hawaii

**H. REPORTS**

1. Statement of Kaua'i County Water Department's Revenues and Expenditures
2. Report by the Public Relations Specialist on a Monthly Update Regarding DOW Public Relation Activities
3. Acting Chief of Operations' Summary Report on the Monthly Operational Maintenance Agreement
4. Manager's Monthly Update Regarding Activities of Note of the Kaua'i County Water Department
5. Report of the Finance Committee of the Kaua'i County Board of Water Supply
6. Report of the Rules Committee of the Kaua'i County Board of Water Supply
7. Report of the Sub-Committee of the Whole Committee of the Kaua'i County Board of Water Supply

**I. STRATEGIC AND BUSINESS PLAN AND NEEDS ASSESSMENT**

1. Updates on the Kaua'i Water Department for their Strategic and Business Plan and Water Plan 2020 Program Sustainability Services
  - a. Issue Champions: Update of Strategic Goals and Implementation Status
  - b. Affordable Housing: Projects Status
  - c. Discussion and Action on Professional Services Contract No. 463, Amendment No. 4, RW Beck

**J. EXECUTIVE SESSION:**

***Pursuant to H.R.S. §92-7(a), the Commission 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***

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**J. EXECUTIVE SESSION** (cont'd)

*pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a).*

REVIEW OF EXECUTIVE SESSION MINUTES:

- a. Regular Meeting: Thursday, June 5, 2008, Part 1
  - b. Regular Meeting: Tuesday, September 16, 2008
  - c. Regular Meeting: Thursday, October 9, 2008
  - d. Special Meeting: Tuesday, October 21, 2008
1. ES-2008-4 (5-8-08) - 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 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.
  2. ES-2008-15 (11-13-08) - 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 and department staff regarding **Judy Ta'afuli Webb's** Request to Testify for the Niumalu Paradise Condominium Project by the Developer Niumalu/Nawiliwili Community Planning Project, TMK: 3-2-03:58, Units 1 thru 13, Niumalu, Lihu'e, Kaua'i. 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.
  3. 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 and/or liabilities, claims and/or potential claims, as they relate to the foregoing and to take such action as the Board deems appropriate.
  4. ES-2008-16 (11-13-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4) and Kauai County Charter Section 3.07(E), the purpose of this executive session is to consult with the Board's legal counsel and Department staff to receive briefing and recommendations for purpose of obtaining Board action on the claim filed against the

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**J. EXECUTIVE SESSION** (cont'd)

County of Kaua'i, Department of Water, by **Paul A. and Robyn L. Sukatski**. This legal consultation on the aforementioned claim involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

5. ES-2008-17 (11-13-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4) and Kauai County Charter Section 3.07(E), the purpose of this executive session is to consult with the Board's legal counsel and Department staff to receive briefing and recommendations for purpose of obtaining Board action on the claim filed against the County of Kaua'i, Department of Water, by **Alfred and Susan Haynes**. This legal consultation on the aforementioned claim involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.
6. ES-2008-18 (11-13-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4) and Kauai County Charter Section 3.07(E), the purpose of this executive session is to consult with the Board's legal counsel and Department staff to receive briefing and recommendations for purpose of obtaining Board action on the claim filed against the County of Kaua'i, Department of Water, by **John Geffert, Jr.** This legal consultation on the aforementioned claim involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.
7. ES-2008-19 (11-13-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4) and Kauai County Charter Section 3.07(E), the purpose of this executive session is to consult with the Board's legal counsel and Department staff to receive briefing and recommendations for purpose of obtaining Board action on the claim filed against the County of Kaua'i, Department of Water, by **Scott Oakley**. This legal consultation on the aforementioned claim involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.
8. ES-2008-20 (11-13-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4) and Kauai County Charter Section 3.07(E), the purpose of this executive session is to consult with the Board's legal counsel and Department staff to receive briefing and recommendations for purpose of obtaining Board action on the claim filed against the County of Kaua'i, Department of Water, by **John Oberg**. This legal consultation on the aforementioned claim involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

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**J. EXECUTIVE SESSION** (cont'd)

9. ES-2008-10 (September 16, 2008 & October 9, 2008) - Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with legal counsel regarding qualification of Board members. This consultation involves consideration of the process, duties, privileges, immunities, and/or liabilities of the Board and the County as they relate to this agenda item.
10. ES-2008-12 (October 9, 2008 & October 21, 2008) - Pursuant to Haw. Rev. Stat §§92-4 and 92-5(a)(2), the purpose of this executive session is to discuss the Follow up on **Job Performance Evaluation** of the Department of Water's Manager and Chief Engineer. This deliberation involves matters affecting the privacy of the Manager and Chief Engineer. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Board and the Department as they relate to this agenda item.
11. ES-2008-8 (6-5-08) - 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

**K. ADJOURNMENT**