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COUNTY OF KAUAI
BOARD OF WATER SUPPLY
COMMITTEE OF THE WHOLE MEETING

ORIGINAL

Wednesday, November 23, 2011

10:19 - 10:43 a.m.

Second Floor, Microbiology Lab Building

Kauai County Department of Water

4398 Pua Loke Street

Lihue, Kauai, Hawaii 96766

REPORTED BY:

TERRI R. HANSON, CSR 482

Registered Professional Reporter

APPEARANCES

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COMMITTEE OF THE WHOLE MEMBERS:

Daryl Kaneshiro, Chair

Larry Dill

Raymond McCormick

Randall Nishimura

Roy Oyama

STAFF:

David Craddick

Deputy County Attorney Andrea Suzuki

Marites Yano

Faith Shiramizu

Dustin Moises

Val Reyna

Keith Aoki

Edward Doi

Becky Malapit

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COMMITTEE OF THE WHOLE

CHAIRMAN KANESHIRO: The committee of the whole meeting is now called to order. Let the record reflect that we do have a quorum. Could you please call for the attendees of the board members at this time.

MS. MALAPIT: Roy Oyama.

MR. OYAMA: Here.

MS. MALAPIT: Michael Dahilig. Larry Dill.

MR. DILL: Here.

MS. MALAPIT: Daryl Kaneshiro.

CHAIRMAN KANESHIRO: Here.

MS. MALAPIT: Clyde Nakaya, Raymond McCormick.

MR. MCCORMICK: Here.

MS. MALAPIT: Randall Nishimura.

MR. NISHIMURA: Here.

CHAIRMAN KANESHIRO: Thank you for that. Again as stated, we do have a quorum.

First item is acceptance of the agenda. Do I have a motion for that, members?

MR. DILL: So moved.

MR. OYAMA: Second.

CHAIRMAN KANESHIRO: Moved and seconded. All in favor signify by saying aye.

Motion approved.

1 Old business is the Manager's Report No. 12-24
2 Emergency Reserve Fund Policy. At this time, Mr.
3 Craddick, do you have any additional comments you wanted
4 to add to this 12-24 Emergency Reserve Fund Policy that
5 is now in the committee of the whole meeting?

6 MR. CRADDICK: Can you show me where it's
7 shown in this packet here?

8 MR. DILL: When you find it, please let me
9 know.

10 MR. NISHIMURA: It's in there somewhere.

11 MS. SUZUKI: Under old business. I think
12 it's in your third section.

13 MR. CRADDICK: I believe there are some
14 numbering changes on there, and then the clarification
15 of whether it was 25 percent of operating revenues
16 including debt service or just what it was.

17 And that now reads, this is Section XII, Funds
18 expended from the emergency reserve fund shall be
19 replaced as expeditiously as possible. Five percent of
20 unreimbursed funds shall be replaced per year to the
21 emergency reserve fund with approximately 25 percent of
22 the department's total operating revenues including debt
23 service based on the average of the previous five fiscal
24 years.

25 CHAIRMAN KANESHIRO: Okay. Members of the

1 Committee, any questions or any further discussions on
2 this item?

3 MR. NISHIMURA: Mr. Chair?

4 CHAIRMAN KANESHIRO: Yes, sir. Go ahead.

5 MR. NISHIMURA: Mr. Chair, conditions for
6 disbursements of emergency funds, emergency reserve
7 funds, Item 4, is there a reason why only labor costs
8 are -- need to be exhausted before reserve funds need to
9 be tapped?

10 MR. CRADDICK: Okay. That four just deals
11 with labor, five deals with service contracts, six deals
12 with equipment, and seven deals with materials. So it's
13 not just labor. It's all of those, but labor is handled
14 in one number.

15 MR. NISHIMURA: But if I read this, do you
16 need to exhaust your labor but not your materials, is
17 that correct?

18 MR. CRADDICK: For that particular item if
19 it's labor related.

20 MR. NISHIMURA: No, I mean as a whole for
21 the policy?

22 MR. CRADDICK: To expend any labor funds,
23 yes, I --

24 MR. NISHIMURA: No, I understand the labor
25 part. But what I'm saying is you don't adjust the

1 materials whether that has to be expended -- fully
2 expended before you tap that fund. Because having a
3 contingency plan for your service contracts, bare
4 equipment and material supply, does not address whether
5 you have to go through your budget first before you tap
6 this fund.

7 MR. CRADDICK: The other one says in the
8 budget they're very specific. It's going to be hard to
9 say that fund has to be expended before we start into
10 doing things that are not related to anything in the
11 budget. Whereas labor is labor, and obviously if you
12 still have some labor budgeted, you can use that.

13 But these other items, since they're using
14 specifically identified in the budget, it would be
15 pretty hard to say we could expend it for that purpose
16 because we wouldn't expend it for that purpose if some
17 condition came up where things changed, we would change
18 along with it and we would focus on the emergency and
19 not whatever was in the budget. So we may not expend
20 what's in the budget for those other items.

21 But labor is labor, and if we have to refocus
22 our labor, you know, we wouldn't start into the
23 emergency funds until we at least exhausted whatever the
24 board had budgeted already before we started into
25 tapping into the emergency funds to utilize for labor

1 cost.

2 MR. NISHIMURA: I'd like to see a mechanism
3 that you have to redo your budget material-wise before
4 you start tapping into the emergency fund for these
5 items. That's what constitutes an emergency.

6 MR. CRADDICK: Well --

7 MR. NISHIMURA: In my mind.

8 MR. CRADDICK: If you have an emergency,
9 that's making an assumption that it is a real emergency.
10 And if we're going to wait until we notice a board
11 meeting to redo the budget and stuff like that, then it
12 probably is not that much of an emergency.

13 MR. NISHIMURA: I would disagree with that.
14 Because I think you need to -- you know, in terms of
15 redoing the budget, you do, I believe, have authority to
16 spend, but you need to come back to the board right away
17 and redo your budget.

18 MR. CRADDICK: I don't know. I can
19 envision times where we may not even be able to get a
20 board together. I mean, if it's a real emergency,
21 you're going to be lucky to get the board members
22 together.

23 CHAIRMAN KANESHIRO: Let me make a comment.
24 I see Commissioner Board Member Nishimura's -- what he's
25 trying to deal with. So in case of an emergency, you're

1 going to take the regular budgeted salaries or labor
2 costs from your regular account first and make sure that
3 is all exhausted. Is that before you even touch this?

4 MR. CRADDICK: Yeah, because that doesn't
5 say that this is money for normal work. I mean, you
6 budget so much for labor, and whether it goes to an
7 emergency or not, it's there.

8 The other items are relatively specific. I
9 mean, they're there for certain contracts, certain
10 materials, things like that. And now we're doing
11 something other than that. So can we go into that
12 budget and do it? Yes, we can if we can notice a board
13 meeting.

14 I'm assuming this is an emergency of such a
15 nature that we're moving on it like the day it happened.
16 We're not waiting to notice a board meeting or something
17 like that to redo our budget. I mean, I don't even know
18 if there would be personnel around to redo the budget at
19 that point if we even knew what to give you for budget.

20 Now, there's no question that the earliest time
21 possible that we could do this, we would obviously have
22 to do it because these amounts of money are not big
23 amounts. So obviously within a week or so we would
24 probably have to have some kind of a board meeting. But
25 these are -- I mean, this is emergency related stuff,

1 and I'm making the assumption that in the case of an
2 emergency like that, there would be no time to notice a
3 board meeting.

4 And to say that, you know, granted we could
5 later on, you know, when we did have this board meeting,
6 we can say, oh, you know, hey, we're going to not
7 purchase this, this, this, and this, by the way we're
8 going to take those funds and reimburse the emergency
9 fund with those monies that we took out of the emergency
10 fund.

11 MR. NISHIMURA: I would like to see that
12 incorporated into the policy.

13 MR. CRADDICK: Okay.

14 CHAIRMAN KANESHIRO: Okay. Members, are
15 there any other comments on this agenda item, on the
16 emergency reserve fund?

17 MR. DILL: I have a question.

18 CHAIRMAN KANESHIRO: Go ahead, Mr. Dill.

19 MR. DILL: The policy defines an emergency
20 as the need to protect public health and permanent water
21 assets from otherwise unbudgeted events. It's not clear
22 to me who is authorized to make the discrimination that
23 an emergency exists to justify utilizing the emergency
24 reserve fund. I mean, I assume it's the manager. But
25 I'd like to see it clear here if the manager is not

1 around, where the authority goes. Somebody's got to
2 make the call as to we're going to tap this fund in the
3 event of an emergency, and I think that should be
4 clearly defined. Unless I missed it here somewhere.

5 MR. CRADDICK: Well, when you say tapping
6 the fund, we're not exempt from the procurement
7 procedures that are normally followed. Although there
8 is some provision in the state law that allows you to
9 bypass some of the procurement during an emergency. But
10 to do that there would have to be some kind of statewide
11 declaration of an emergency at that point.

12 MR. DILL: Okay. And I see that there. In
13 the event of a statewide declaration, I think it's clear
14 that there's an emergency. Well, there's a statewide
15 declaration that may not necessitate a department of
16 water emergency though, I guess.

17 MR. CRADDICK: Could be. It could be.

18 MR. DILL: I still think that we would have
19 to -- I would like to see, you know, before we exercise
20 this fund, that who has the authority to make a
21 determination? Because I do agree with you. In an
22 emergency by its nature we're not go to call a board
23 meeting to determine how to attempt it. Somebody on the
24 ground has got to make that call or close it to.

25 MR. CRADDICK: Well, I guess public safety

1 would be -- could be a number of things, not just water
2 quality. It could be water quantity also.

3 MR. DILL: I mean, to me the simple answer
4 is the manager.

5 MR. CRADDICK: I'm presuming it would be,
6 but I --

7 MR. DILL: But I don't want to limit any
8 use of the fund when it's appropriate, which is why I
9 think there should be --

10 MR. CRADDICK: I don't mind putting that in
11 there, As determined by the manager, if you want.

12 MR. DILL: Maybe like manager or --

13 MR. CRADDICK: Or chair or vice-chair if
14 they're available.

15 MR. DILL: Well, I wouldn't mind seeing
16 something like manager and his designee. So that if you
17 are off island, every time you are off island you
18 designate whoever the individual is that is standing in
19 for you.

20 MR. CRADDICK: Right.

21 MR. DILL: Which I feel would be the
22 deputy. I guess I'm trying to avoid a situation where
23 if you are off island people are scratching their heads
24 saying, Are we allowed to do this?

25 CHAIRMAN KANESHIRO: Good point.

1 MR. CRADDICK: Okay.

2 CHAIRMAN KANESHIRO: Okay. Any additional
3 comments or questions by members of this committee?

4 MR. NISHIMURA: Mr. Chair, Item 12, five
5 percent of unreimbursed shall be replaced for a year.
6 That would take roughly 20 years to replenish the fund.
7 I don't think we can --

8 MR. CRADDICK: No, no. If we're only going
9 to 25 percent, that's the maximum --

10 MR. NISHIMURA: Of the unreimbursed funds,
11 though. Unreimbursed funds. So what happens is if you
12 spend a million dollars, and the feds reimburse you half
13 a million?

14 MR. CRADDICK: No, no, this is unreimbursed
15 funds of our revenues.

16 MR. DILL: Yeah, but it's not clear.

17 CHAIRMAN KANESHIRO: Well, we need to
18 clarify that also.

19 MR. CRADDICK: That means that less than
20 any late monies paid back or --

21 MR. NISHIMURA: Then I think then you need
22 to separate the two because it seems that Section XII
23 addresses funds that are expended and not reimbursed or
24 not -- you know, not reimbursed. And if that
25 replacement is part of Section XII, then you need

1 another section to deal with the other portion. But
2 you're trying to do two things in one.

3 MR. CRADDICK: Yeah, yeah, you're right.
4 You're right.

5 CHAIRMAN KANESHIRO: Okay.

6 MR. NISHIMURA: And I would again suggest
7 to the board that this fund be 25 percent of the
8 operating costs and not revenue, because included in the
9 revenue is the emergency reserve fund that's part of the
10 budget and any excess.

11 MR. CRADDICK: Well, operating --

12 MR. NISHIMURA: Operating costs.

13 MR. CRADDICK: Plus debt service. Because
14 debt service is not --

15 MR. NISHIMURA: Okay. Debt service. Okay.
16 If you look at the preamble to the policy, it's
17 something that is unforeseen. Now, if we go full bore
18 into -- especially on capital expansion as opposed to
19 replacement, I think the board needs to be aware of what
20 those costs impacts to the debt service will be and look
21 at that over a five-, ten-year period as opposed to
22 approving something and then we cannot pay for it.

23 And I think, you know, that is my overriding
24 concern. This should not be primarily as a mechanism to
25 make up shortfall for debt service.

1 MR. CRADDICK: Well, if we issued revenue
2 bonds it wouldn't be. But because we have GO bonds and
3 there's no requirement for a reserve fund, we don't have
4 any reserve to make the payments. It just comes out of
5 our cash. So if something happens to interrupt our cash
6 coming in and we can't make that payment, we're going to
7 be in trouble.

8 Now, if we have this reserve fund that can be
9 tapped to pay that, then we're okay. But right now, we
10 don't have any reserve fund for our debt service
11 payments. Not for SRF or any of the GO bonds that the
12 county has issued for us.

13 So that's a big risk to not set aside money to
14 pay that, because that is a very real cost in addition
15 to your operating costs.

16 MR. NISHIMURA: Well, I still think that
17 those reserves should be kept separate from each other.

18 MR. CRADDICK: We can take some ratio out
19 of this 25 percent. We can take the ratio.

20 MR. NISHIMURA: Maybe we can talk about
21 this.

22 MR. CRADDICK: And maybe it's better to set
23 up a reserve fund for the debt as separate. You know,
24 have an emergency operating reserve fund and then an
25 emergency debt service fund if you want.

1 MR. NISHIMURA: I would prefer to see that.
2 Because when you're looking at 25 percent of the entire
3 budget, that means -- that's a hunk of change.

4 MR. CRADDICK: Yeah. No, it is. I mean,
5 it's right --

6 MR. NISHIMURA: It all goes back to our
7 rates again.

8 MR. CRADDICK: Yeah, yeah. What are we
9 paying right now, Tess, each year?

10 MS. YANO: About 6.2.

11 MR. CRADDICK: Six million. So that's
12 twice a year, \$3 million for each time roughly. Now,
13 the service times are all different dates, but just
14 let's assume \$3 million. So a month, you know, six
15 divided into that, that's \$500,000.

16 So if we had a reserve now, if we're talking
17 about 25 percent of the total year, that's a little over
18 a million dollars for that.

19 So we could cut out of this something and then
20 have a reserve so that we always have money each month
21 going into that reserve fund, and we just do that
22 regardless even though there's not revenue bonds. That
23 would --

24 MR. NISHIMURA: And you cap it?

25 MR. CRADDICK: Yeah, yeah, yeah, it's

1 capped with whatever your debt service is.

2 MR. DILL: Would the intent be then to have
3 the total of those two be at 25 percent of the revenues?

4 MR. NISHIMURA: Not to exceed that.

5 MR. DILL: Not to exceed.

6 MR. CRADDICK: No, no, basically what you
7 would do is you would always have the next debt service
8 payment. Like say \$3 million for right now in an
9 account where you could always pay it regardless of any
10 emergency. You would always have the money to pay that.

11 Versus right now the way we're operating it
12 just comes out of the revenue fund, and our revenue fund
13 is high right now. But it's projected to go basically
14 to almost nothing except working capital. And it's okay
15 to separate the two of them. I mean, that's fine.

16 MR. NISHIMURA: Because I think that would
17 more clearly indicate to the board if we're
18 overborrowing.

19 MR. CRADDICK: Yeah. Not only that, it
20 would indicate to potential bond buyers, you know,
21 exactly what you're setting aside the reserve for, which
22 I think would be good to know if you're a person looking
23 to buy the bonds, that this money is set aside
24 specifically to pay debt service.

25 MR. DILL: So then we would have, I

1 believe, Paragraph 10, I guess from this.

2 MR. CRADDICK: Yeah, yeah. We'd have to do
3 a whole new policy, I think, for that to make it clear.
4 And then we just call this our emergency operating
5 reserve and reduce the percentage. And the other one
6 wouldn't be a percentage. It would just be whatever
7 the, you know, each month you'd be setting aside into
8 the fund so that the fund would be going up and down
9 continuously, but there would always be a fixed amount
10 of whatever the next debt service payment is in that
11 fund.

12 MR. NISHIMURA: Where would -- if that fund
13 went up and down, where would the excess be?

14 MR. CRADDICK: It would just remain vested.

15 MR. NISHIMURA: Because if it's vested,
16 then the requirements for that fund may go up and down,
17 but the amount of the fund will not change without board
18 approval. Is that what I'm hearing?

19 MR. CRADDICK: No, it would change.
20 Because what you'd be doing is you would have the
21 reserve set aside, and then coming up to whatever the
22 next payment, you'd set aside a certain amount every
23 month. And when the payment became due, you would pay
24 it.

25 MR. NISHIMURA: Okay. And as that

1 requirement went down -- if it went down --

2 MR. CRADDICK: Yeah, if it went down, yeah,
3 you wouldn't need the same.

4 MR. NISHIMURA: Okay. And then what would
5 happen to those funds? I would like to see that
6 addressed in that policy.

7 MR. CRADDICK: You're envisioning a time
8 when we have no debt. I guess we can do that but --

9 MR. NISHIMURA: It's easy to spend somebody
10 else's money.

11 MR. CRADDICK: Yeah, yeah, yeah.

12 MR. NISHIMURA: I want the money back for
13 the rateholder.

14 MR. CRADDICK: Yeah, yeah, yeah. I guess
15 that possibility exists that we would never have any
16 debt.

17 MR. NISHIMURA: And the last item,
18 Mr. Chair, is I don't believe that there's a need for
19 the addendum to be included with the policy. I wanted
20 that so that I could understand the department's
21 methodology as to how they would approach using the
22 funds, but that need not be part of the policy.

23 CHAIRMAN KANESHIRO: Okay. Any other
24 comments or questions for the manager?

25 If not, I'm going to call for a deferral on

1 this. We have more work to be done on this item.

2 So at this point before I call for the question
3 of deferral, any other comments by board members or
4 discussions?

5 If not, can someone make a motion to defer
6 Manager's Report No. 12-24.

7 MR. OYAMA: Yeah, move to defer.

8 MR. DILL: Second.

9 CHAIRMAN KANESHIRO: Just to note that it
10 should be deferred in committee for our next committee
11 meeting scheduled next month. So we'll have the
12 committee meeting previously to our regular board
13 meeting.

14 Now with that, all those in favor signify by
15 saying aye.

16 Any opposed?

17 Hearing none, motion carried.

18 This item is deferred.

19 (Concluded at approximately 10:43 a.m.,
20 November 23, 2011.)

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1 STATE OF HAWAII)
) ss.
 2 COUNTY OF KAUAI)


3 I, TERRI R. HANSON, RPR, CSR 482, do hereby
 4 certify:

5 That on Wednesday, November 23, 2011, at 10:19
 6 a.m. that the foregoing COMMITTEE OF THE WHOLE MEETING,
 County of Kauai, Board of Water Supply, was held;

7 That the foregoing proceedings were taken down by
 8 me in machine shorthand and were thereafter reduced to
 9 typewritten form under my supervision; that the
 10 foregoing represents to the best of my ability, a true
 and correct transcript of the proceedings had in the
 foregoing matter.

11 I certify that I am not an attorney for any of
 12 the parties hereto, nor in any way concerned with the
 cause.

13 DATED this 10th day of December, 2011, in Kapaa,
 Hawaii.

14 
 15 _____
 16 TERRI R. HANSON, CSR 482
 Registered Professional Reporter

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