

REGULAR MEETING
BOARD OF WATER SUPPLY
Tuesday, October 17, 2006

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Tuesday, October 17, 2006. Chairperson Josephine Sokei called the meeting to order at 9:17 a.m. On roll call, the following answered present:

BOARD: Ms. Josephine Sokei, Chairperson
Mr. Ian Costa
Mr. Donald Fujimoto
Mr. Steven Kyono
Ms. Lynn McCrory
Ms. Bernie Sakoda

Absent & Excused: Mr. Myles Shibata

STAFF: Ms. Wynne Ushigome
Mr. Paul Ganaden
Mr. Les Yoshioka
Mr. Gregg Fujikawa
Mr. Keith Fujimoto
Mr. Bruce Inouye
Deputy County Attorney James Tagupa

GUESTS: Deputy County Attorney Galen Nakamura
Ms. Debra Togioka, DOW's Personnel Assistant (about 11:00 a.m. – 2 p.m.)
Mr. Tom Takatsuki, Dept. of Personnel Services (about 11:00 a.m. – 2 p.m.)
Mr. Dave Jochim, RW Beck
Mr. Tom Cutting, RW Beck
Mr. Art Defries (10:05 a.m.-11:18 a.m.)

AGENDA

New Business, Item 1, Request to Testify by William Rita was deferred due to illness. Mr. Costa moved to approve the Agenda, as amended, seconded by Mr. Fujimoto; motion was carried.

MINUTES

Ms. McCrory corrected the following areas should be written as such:

1. Page 20, 2nd Paragraph, Last Sentence: It should read: Our community is best served when you [strive for] achieve excellence.

Ms. McCrory moved to accept the Regular Meeting Minutes of September 19, 2006, as amended and placed on file, seconded by Mr. Fujimoto; motion was carried.

CORRESPONDENCE/ANNOUNCEMENTS:

Re: Letter from East and West Kauai Soil & Water Conservation Districts for their Award Ceremony for their Outstanding Water Conservationist for 2006

Received for the record.

OLD BUSINESS

Re: For Board's Information on the Department of Water's Vacant Positions

Discussion and Action Steps concerning: 1) Selection Process for new Manager and Chief Engineer of the Kaua'i County Water Department and 2) Increase Water Manager's Salary

Acting Manager Ushigome reported that September 29, 2006 deadline for the Water Manager's job passed and no applications were received. Pending further research and the direction from the Board, the Department has not yet re-advertised the Water Manager's position in any of the major newspapers of general circulation within the State.

To date, the Department has spent approximately \$7,500 in advertising fees to post the position during the 3 separate recruitment cycles, in the various websites, newsletters, and newspapers in general circulation within the State.

Ms. McCrory submitted copies of 3 letters that were submitted by Mr. Gary Slovin, Esq. of Goodwill, Anderson Quinn and Stifel that were submitted to County Attorney Lani Nakazawa on the results of his legal research, which basically stated that he felt that the Board could set the salaries of the DOW's Manager and Deputy Manager. County Attorney Nakazawa stated that her position is that she concurs that the BWS could determine the compensation for the DOW's Manager as being a plausible reading of the County ordinance. The Board could then request rules to be written, which they tasked Deputy County Attorney Galen Nakamura to do, with the approval of County Attorney Nakazawa. He will need to submit the proposed draft rule at the next Board Meeting on November 21, 2006 and to schedule a public hearing thereafter.

Ms. McCrory stated that the next steps would be for the Board to inform the Mayor and County Council on what is being planned. She volunteered to do that and hoped that other Board members would join her.

Ms. McCrory added that the proposed rule would allow the Board to set the Manager's salary between \$75,000 to \$140,000 and to do an executive search.

On query by Ms. McCrory, Deputy County Attorney Nakamura gave the schedule of events for the rulemaking process. 1) The Board approves the proposed rule amendment; 2) 1-time advertisement in the local newspaper with the public hearing to be held not less than 30 days from the ad date; 3) in the meantime, need to meet with the Board's Small Business Advisory Committee (SBAC) and the Small Business Regulatory Review Board (SBRRB) to seek comments; however, as this proposed rule has no effect on small businesses, it would probably be just a formality; 4) the public hearing is held and the results of the public hearing need to be submitted to the SBRRB for their final review; 5) the final rule amendment is approved at the next Board Meeting after the SBRRB's post-public hearing comments are received; and 6) signatures would be sought from the County Attorney, Mayor and County Clerk with the rule amendment to be effective 10 days after the County Clerk signs the rule amendment. This rulemaking process will take several months.

Deputy County Attorney Tagupa added that County Attorney Nakazawa previously stated that it would be great to give the Mayor and County Council a heads up as the Department Heads salaries were set by the County Council. Ms. McCrory stated that she had already started to talk to all concerned.

Mr. Fujimoto concurred that it is important to ensure that the County Council is aware of what the DOW is doing and the process we are following, even if it is a reminder. Ms.

McCrorry stated that she had given the Council members the heads up on what the DOW is planning to do to expedite the hiring of a DOW Manager, including RW Beck's Compensation Study.

Mr. Fujimoto added that following a process is important as well as the timing of the process and to also meet with them once again when this matter is on the Council Agenda.

Ms. McCrorry added further that as she sees our Council members that she does give them updates of what the DOW is doing. She added that she is very excited to at least get to this point.

On query by Mr. Fujimoto, Ms. McCrorry stated that she had conferred with RW Beck that although their Compensation Study was for a wastewater position, there were similarities with water.

On query by Deputy County Attorney Tagupa, Ms. McCrorry stated that she personally hired Mr. Gary Slovin of Goodill Anderson Quinn & Stifel. Deputy County Attorney Tagupa stated that since Ms. McCrorry personally hired Mr. Slovin, it could be construed as her personal opinion. Therefore, the Board should formally adopt this process so it is clear that all the Board members concur. The Board's approval would also make clear on what type of participation is needed by all board members and whether all Board members will participate with talking to the Administration and Councilmembers or one Board member will be the spokesperson for all of the Board members.

On query by Mr. Fujimoto, Deputy County Attorney Tagupa stated that this Mr. Slovin's legal opinion is just that and was not meant as a gift. Mr. Fujimoto added that he would want to see a written legal opinion from County Attorney Lani Nakazawa on how she felt about this before the Board makes a decision, even though she had given Ms. McCrorry an oral opinion over the phone.

On query by Ms. McCrorry, Mr. Fujimoto stated that he felt that salaries can be a hot issue; therefore, in case there is some type of litigation in the future, he would feel much more comfortable to have a written legal opinion from the County Attorney to show that she concurs with the Board's process.

Ms. McCrorry moved to accept the 3 letters from Goodill, Anderson, Quinn & Stifel as a position of the Board of Water Supply, pending a written document from County Attorney Lani Nakazawa that concurs that this is a plausible reading of the County ordinance.

As Mr. Fujimoto requested more time to review the 3 letters, this matter was deferred to the end of this Board Meeting.

Mr. Fujimoto requested that the rest of this matter all be deferred until after Executive Session. Ms. McCrorry withdrew her motion.

AGENDA

Chair Sokei so ordered that the rest these matters under Old Business Items 1a and 1b to be taken up after Executive Session.

Re: Quarterly Report on Manager's Top 4 Goals for Year 2006

Recommendation: Not Applicable

Project Funding: Not Applicable

Background:

Manager’s Top 4 Goals for the Year 2006:

1. Fill key departmental vacancies and improve office work area (Admin)
2. Improve internal communications-Strategic Business Plan (Admin)
3. Install AMR system (Fiscal-Special Projects-Operations)
4. Develop the Water Use and Development Plan (Water Resources & Planning)

Departmental Vacancies

Current vacancies and status of the filling the positions:

Manager and Chief Engineerno applicant
 Chief of Engineeringeligibles list expires November 1, 2006
 Waterworks Legal AdvisorOctober 2006
 Engineer/PlannerMarch 2007
 SCADA/Electronic Tech.....March 2007

With the recent vacancies in the Engineering Division, temporarily focused working with the Department’s personnel assistant and DPS to advertise job announcements for waterworks inspector and civil engineer positions.

Ms. McCrory discussed with County Attorney Nakazawa on what the DOW could do in case the vacant Waterworks Legal Adviser position cannot be filled. They discussed the options of hiring 2 law firms. One law firm would be the Kauai firm which could assist with the day-to-day legal aspect of the DOW operations and to hire an Oahu law firm for more specific and difficult issues of the DOW. Ms. McCrory added that Mr. Gary Slovin of Goodwill is also a lobbyist that the DOW could use to lobby for legislative State funds for the DOW. Also, a representative from the Kaua’i firm would attend our Board Meetings, along with the Deputy County Attorney.

Ms. McCrory stated that the DOW would devise monthly retainers to cover so many hours at a set rate and carry over the unused hours.

Deputy County Attorney Tagupa recommended that the RFQ for professional services for the 2 situations above be done separately as we are requesting different types of services. He also recommended that this matter be put on the Agenda and the Board can discuss exactly how they want to structure it.

Internal Communications

Assisted by our consultants RW Beck (through the strategic planning process), working on providing a monthly newsletter to our employees by our Public Relations Specialist. As identified in the strategic planning discussions, we need to improve and facilitate communication between staff and provide feedback regularly.

AMR System

The Department is preparing a professional services contract to acquire special counsel assistance to address the bid protest filed for this subject project.

Water Use and Development Plan

Based on our discussion with the State SDWB, source water protection funds may be eligible; however, the Department needs to carefully consider whether the intent and scope of the plan will be compromised, if additional components need to be added in order to justify the use of the State funding.

In compliance with the State Water Code, the Kauai Department of Water is tasked with the responsibility to prepare the County's Water Use and Development Plan (WUDP). The WUDP serves as a continuing (land use based) long-range guide for the water resource development for the County.

The Kauai WUDP will set forth "the allocation of water to land use" and needs to be adopted by ordinance and submitted to Commission on Water Resource Management for approval and adoption. We will need to identify stakeholder and provide public involvement in the development of the plan recommendations.

Received for the record.

Re: Job No. 92-4, Koloa Well "F" Pump, Controls and Pipeline, Koloa, Kauai, Hawai'i (Water Plan 2020 Project No. KP-01)

Recommendation:

It was recommended that an amount of \$5,000.00 be budgeted from Account No. 106B, CIP Reserve for additional vertical profile adjustment work required to connect the piping for the Mahaulepu Tank's West Check Valve Station to the existing water system.

Project Funding:

Contract No. 443, Goodfellow Brothers, Inc. – Construction

Total Funds Certified.....	\$ 1,977,500.00	
Goodfellow Brothers, Inc.....	<u>\$<1,975,429.75></u>	
Balance Remaining.....		\$ 2,070.25
Proposed Change Order.....	\$< 6,750.00>	
Contingency (5%).....	<u>\$< 320.25></u>	
Total.....		\$< 7,070.25>
Additional Funds Requested, Account 106b, CIP Reserve.....		<u>\$< 5,000.00></u>

Background:

At its August 2006 Meeting, the Board approved the Department's funding request which included additional piping and bends needed for a horizontal alignment revision at the Mahaulepu Tank Check Valve Stations due to the actual field alignment of the existing County waterline.

Subsequent to the August Board Meeting, it was discovered during construction of the West Check Valve Station at the Mahaulepu Tank site that due to profile deviations along the existing County waterline, additional bends and piping are also required for making a vertical profile adjustment in order to properly connect the West Check Valve Station to the existing water system.

Mr. Kyono moved to approve an amount of \$5,000.00 from Account No. 106B, CIP Reserve for additional vertical profile adjustment work required to connect the piping for the Mahaulepu Tank's West Check Valve Station to the existing water system, seconded by Mr. Costa; motion was carried.

Re: Job No. 98-6, Refurbish 0.2 M.G. Ornellas Tank, Kapaa, Kauai, Hawai'i
(Water Plan 2020 Project No. WK-07)

Recommendation:

It was recommended that an amount of \$14,300.00 be budgeted from Account No. 106B, CIP Reserve for the additional work required to remove and replace a 150 foot section of the existing 6 foot high chain link security fencing with a 2 foot high CMU wall topped with 4 foot high chain link fence.

Project Funding:

Contract No. 431, Oceanic Companies, Inc. – Construction

Total Funds Certified.....\$ 823,600.00

Oceanic Companies, Inc.....\$<810,943.91>
Balance Remaining.....\$ 12,656.09

Proposed Change Order.....\$< 25,697.78>
Contingency (5%).....\$< 1,258.31>
Total.....<\$ 26,956.09>
Additional Funds Requested, Account 106b, CIP Reserve<\$ 14,300.00>

Background:

During construction, it was discovered that the runoff from the Ornellas tank site flows into and floods the adjacent landowner's property. In order to redirect the surface flows away from the adjacent property and prevent flooding, it is recommended that a new 2 foot high CMU wall topped with a 4 foot high chain link fence be constructed to replace a 150 foot section of the existing 6 foot high chain link security fence. The new CMU wall will redirect the site's surface and roof runoff to the existing drainage swale at the rear of the site and away from the adjacent property.

Ms. Sakoda moved to approve an amount of \$14,300.00 from Account No. 106B, CIP Reserve for the additional work required to remove and replace a 150 foot section of the existing 6 foot high chain link security fencing with a 2 foot high CMU wall topped with 4 foot high chain link fence, seconded by Mr. Costa; motion was carried.

Re: Request Board Approval of Funds for Job No. 97-10, WKK-14, Kilauea Booster Pumps, Kilauea, Kauai

RECOMMENDATION: It was recommended that the Board reallocate \$360,000.00 from [~~Account 106b, CIP Reserve~~] Account No. 301b FRC Fund Balance for the balance required for the construction for this project.

FUNDING:

301. FRC CIP, Job No. 97-10, WKK-14, Kilauea Booster Pump \$500,000.00

Engineer's Estimate \$817,140.00
Contingency approx. 5% \$ 42,860.00
Total:<\$860,000.00>
Additional Funds Requested, Account No. 301b FRC Fund Balance:.....<\$360,000.00>

BACKGROUND:

This project includes the construction of the Kilauea booster pump station, including two booster pumps, approximately 1,300 feet of 8" ductile iron connecting waterline, pump control building, fencing, etc. The booster pumps are required to provide adequate water

service pressures to the east Kilauea community. The booster station will be installed off Wailapa Road on an easement granted to the Board from the Na Aina Kai Botanical Gardens.

Due to the urgency of the project, we have started advertising prior to receiving the engineer's estimate. Therefore, we are requesting for the additional balance in anticipation of bids to be received.

On query by Ms. McCrory, Mr. K. Fujimoto stated that depending on how bids go, this project could be completed by the beginning of next summer.

On query by Mr. Kyono, Mr. K. Fujimoto stated that probably this project initially was not scoped out completely and the initial site did not work out; therefore, the project relocation may have also been a factor that increased the cost for this project.

Mr. Costa moved to approve the reallocation of \$360,000.00 from Account No. 301b FRC Fund Balance for the balance required for the construction for this project, seconded by Mr. Kyono; motion was carried.

NEW BUSINESS

Re: Request to Testify by William C. Rita on their Water Requirement for Subdivision No. 2006-42, Lot 88A, Kalāheo Homestead, 1st Series, Kalāheo, Kaua'i, Hawai'i

Ms. McCrory moved to defer this agenda item to the next Board Meeting, seconded by Ms. Sakoda; motion was carried.

Re: Request Board Approval to Revise Board of Water Supply Policy No. 3, Expenditure of Water Utility Funds

Recommendations:

It was recommended by Board members at the September 2006 meeting to increase the Water Manager's discretionary authority to approve purchases of equipment, furniture, fixture, etc., (non-waterworks materials) from \$1,000 to \$5,000.

Background:

In recognition of increasing operations and maintenance costs, the Board recommended revising and updating the Board of Water's Policy No. 3, Expenditure of Water Utility Funds. This Board policy became effective on February 1999 and has remained unchanged since that time.

The proposed revisions specifically affect Item No. 3, which reads:

3. Purchases of equipment, furniture, fixtures, etc., (non-waterworks materials), in excess of **\$5,000.00** [\$1,000.00] which will be capitalized and which are not itemized in the budget shall have prior Finance Committee approval. Purchases less than **\$5,000.00** [\$1,000.00] shall have prior Manager and Chief Engineer approval.

The Board policy material to be deleted and replaced is bracketed. New revised material is underscored and boldfaced. In reprinting this policy, the brackets, bracketed material, underscoring, and boldface will not be included. See attached (existing) Board of Water Supply Policy No. 3, RE: Expenditure of Water Utility Funds.

Mr. Fujimoto moved to approve Board Policy No. 3, seconded by Mr. Costa; motion was carried.

Mr. Art Defries was present at the meeting at about 10:05 a.m.

Re: Proposed Capital Improvements Projects (CIP) Submittal to the 2007 State Legislature

Recommendation

It was recommended that the Board approve the attached proposed CIP projects for submittal to the upcoming legislative session. We included in our proposed CIP a request for projects in the areas that will benefit State facilities, specifically for fire protection for public schools at the Hanalei and Waimea Canyon Schools, along with Kapa'a High School and Mahelona State Hospital. In addition, we also included a request to improve the storage for the Kapa'a area in order to assist the island with the construction of affordable housing.

Also included are requests for funding for the proposed Wainiha 100,000-Gallon Storage Tank, Booster Pump and Connecting Pipeline; Anahola Well No. 4; and the study of surface water in Kilauea.

On query by Ms. McCrory, the secretary stated that our CIP booklets are sent out to the House of Representatives, State Senate, State Department of Budget and Finance, State DLNR, County agencies like the Mayor's Office, Planning Director, Finance Director, etc. Also on query by Ms. McCrory, Acting Manager Ushigome stated that we have been using Ms. Charlene Oshiro as our Legislative Liaison who does not lobby for the DOW; however, she tracks any type of bills that may affect the DOW and its operations and keep us up-to-date on the bills' progress.

Ms. McCrory requested that the DOW look into getting a lobbyist when we work on our next professional services Request for Qualifications (RFQ).

Ms. McCrory moved to approve the CIP Projects Packet for the 2007 Legislature, seconded by Mr. Costa; motion was carried.

Re: Resolution No. 2 (06/07), Legislative Budget for Fiscal Year 2007-08

On query by Ms. McCrory, Waterworks Controller stated that this is a proposed budget for Fiscal Year 2007-08, which sole purpose is for submittal to the State Legislature. Mr. Kyono added that the law requires it. This needs to be included with our CIP legislative packet.

Mr. Kyono, moved to approve Resolution No. 2, Legislative Budget for Fiscal Year 2007-08, seconded by Mr. Costa; motion was carried.

REPORTS

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

Ms. McCrory asked for clarification on Page 1, Water Sales, which Waterworks Controller Ganaden stated that there was an error that has since been fixed.

Ms. McCrory asked for clarification on Page 4, Bond Issues, which Waterworks Controller Ganaden stated that there was also an error that needed to be fixed. The amount of \$508,646 should be stated under Item 97, Actual Expenditures. Also, Item 86, Actual

Expenditures, should be corrected to \$114,214.69 and Item 87, Actual Expenditures, should be \$108,740.59. He did not have time to correct the numbers before the Board packet was sent out.

Received this report for the record.

Re: Manager's Update for September, 2006 to October, 2006

CONTRACTS AWARDED BY THE MANAGER:

Re: Bids – Solicitation GS-2006-01, Furnishing and Delivering the Following Vehicles:

1) One (1) ½-Ton Pickup with Accessories; 2) One (1) 15,000 lbs GVWR 4x4 Cab and Chassis with Service Body; 3) One (1) 15,000 lbs. GVWR 4x4 Cab & Chassis with Service Body and Accessories

Contract awarded to Midpac Auto Center for \$163, 646.81.

4) One (1) ½-Ton Extended Cab Pickup with Accessories; 5) One (1) ½-Ton Extended Cab Pickup w/ Accessories; 5) One (1) Sport Utility Vehicle;

Contract awarded to Cutter Ford, Inc. for \$70,872.14.

FUNDING: Account No. 106, Vehicles and Equipment:	\$282,000.00
Midpac Auto Center:	\$163,646.81
Cutter Ford, Inc.:	\$ 70,872.14
Remaining Balance:	<u>\$ 47,481.05</u>

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

WAIVER, RELEASE, AND INDEMNITY AGREEMENTS SIGNED BY THE MANAGER:

1. Port Allen Residential LLC, TMK: 2-1-03:005, 'Ele'ele, Kauai

Affordable Housing Update:

According to the OCA-County Housing Agency, the Administration's Affordable Housing Policy has been forwarded to the County Council. The Affordable Housing Policy is up for discussion at the Council on Wednesday, October 11, 2006.

Also, for the Board's review was a copy of the Affordable Housing Task Force (9/25/06) meeting's summary table identifying the status on the various projects.

Ms. McCrory referenced the proposed Housing Policy Ordinance on the second to last page that referenced that both the Public Works Department's Wastewater Division and the Planning Department may be asked to waive their fees. She asked Acting Manager Ushigome if the DOW was asked to waive any fees. Acting Manager Ushigome stated that the Department was not approached yet. Ms. McCrory stated that the Department should start to look into ways that we could do our part to support affordable housing. She was not sure what it would be that the DOW could waive, if anything, but it was something to look into to help affordable housing. Mr. Kyono stated that the Department needed to be careful on what is waived as it may have legal ramifications. Acting Manager Ushigome added that another approach would be to raise the rates to accommodate affordable housing. Mr.

Fujimoto added that the DOW is supporting affordable housing by revisiting our future water projects that would support and accommodate future affordable housing projects.

Mr. Fujimoto added that the Board could make their own resolution to support affordable housing. Ms. McCrory stated that the Board could further discuss on how they can support affordable housing at the December, 2006 Board Meeting.

On query by Acting Manager Ushigome, Ms. McCrory stated that the avenues the Board would want to review to assist affordable housing would be whether certain water fees could be waived or discounted, etc. and where would the money come from. Mr. Fujimoto requested that Acting Manager Ushigome should make a list of possible avenues that the Board could possibly use to support affordable housing projects, and prioritize the list with the easiest first, e.g., to fast track all of affordable housing projects. Mr. Kyono added that the report should include the impacts the Department would face for waiving or discounting water fees. Ms. Sakoda added that Acting Manager Ushigome could work off of the County's list of proposed affordable housing projects, starting with the State parcels.

Ms. McCrory asked about the status of the Puhi Self-Help Right-of-Entry (ROE). Mr. Inouye stated that he did not receive that ROE yet. Ms. McCrory requested that Mr. Inouye call the developer if he does not receive the ROE soon.

Ms. McCrory asked if the design plans were finalized for the Kauai Lagoons Waipouli Courtyard Project. Mr. Inouye had to verify if the tracings were submitted and, as requested, will let Ms. McCrory know the status.

On query by Ms. McCrory, Mr. K. Fujimoto stated that the EA has been published for the Stable Tank project and there is a 30-day response period before they issue FONSI, which will probably be sometime late October or early November, 2006.

On query by Ms. McCrory, Mr. K. Fujimoto stated that the DOW had reviewed the construction drawings for KEO's Phase 1 and Phase II, Transitional Housing and there were minor revisions required.

Hawaii Employers Council: The Hawaii Employers Council has received the Department's membership application and initiated contact with the Department to help identify available training opportunities/services.

In conjunction with the Strategic and Business Plan implementation, the Department will coordinate providing employee training and career development opportunities with RW Beck.

Ms. McCrory added that the Hawaii Employer's Council has a new Customer Service Training Workshop.

USGS Well Drilling Program's Liquidation of Assets: The bid opening is set for Wednesday, October 11, 2006. At the time this report was prepared, the bids were not opened. The Big Island Department of Water Supply will forward a copy of the bid summary to the Department and a breakdown of the costs.

The Department requested the welder and 40-foot storage container, the suggested value of these items were \$2,500 and \$3,500, respectively.

Again, based on the outcome of the bid results, the proceeds from the sale of the well drilling equipment (minus any miscellaneous expenses and acquisition of equipment by the

respective departments) will be computed and distributed equally among the 3 participating County Water Departments. The respective departments shall also be responsible to pay all shipping and related costs for the items they selected.

Hawai'i Water Works Association (HWWA) Conference: Acting Manager Ushigome extended a heartfelt thank you to everyone for helping with the annual HWWA Conference. It was a tremendous effort and she appreciated the support and guidance shared throughout the entire event.

Received for the record.

Re: Kauai County Water Quarterly Briefing on Departmental Projects

A written quarterly report of the status of the DOW's projects, along with an Executive Summary, was submitted for the Board's information.

Mr. Fujimoto stated that he has had many complaints about the road patches in Waipouli for the DOW's waterline replacement project. Acting Manager Ushigome stated that the DOW finally got the noise variance from the Planning Department so that Niu Construction could work at night to do the re-paving since they were restricted from working during the day. Niu was also suppose to start the week before but got delayed. Mr. Fujimoto stated that the road conditions are not expected to be great but the temporary patch should be acceptable as he had gotten complaints that some residents had to realign their tires.

Mr. Kyono added that on Oahu the State DOT does not allow cold patches but requires a high set concrete low strength flurry patch, which is more costly but a better product. Mr. Kyono and his staff may be requiring such a patch to mitigate the many complaints that they get with cold patches.

Ms. McCrory stated that as of that morning along the way to the Board Meeting, the road was not fixed; therefore, she requested Acting Manager Ushigome to followup with the contractor. It was so noted.

On query by Mr. Kyono, Mr. Inouye stated that the contractor is still not done with the project and that they are aware that they need to repave the areas that were dug up. Mr. Kyono added that the complaints about the road condition have already gone to the Governor's Office on Oahu but it gets diverted to his office to handle.

Received for the record.

Re: Report of the Public Affairs Committee of the Kaua'i County Board of Water Supply

This matter was already taken care of in Committee Meetings.

Re: Report of the Rules Committee of the Kaua'i County Board of Water Supply

This matter was already taken care of in Committee Meetings.

Re: Report of the Finance Committee of the Kaua'i County Board of Water Supply

This matter was already taken care of in Committee Meetings.

Re: For Board's Information on the Department of Water's Vacant Positions (cont'd)

Discussion and Action Steps concerning: 1) Selection Process for new Manager and Chief Engineer of the Kaua'i County Water Department and 2) Increase Water Manager's Salary (cont'd)

Mr. Fujimoto reiterated his concern that he would want to see a written legal opinion from County Attorney Lani Nakazawa on how she felt about this before the Board makes a decision, all though it is encouraging to hear that County Attorney Nakazawa had given Ms. McCrory an oral opinion over the phone.

He referenced the August 9th letter that he felt may be ambiguous in the intent and also the letter states that the Board can manage the DOW and now it infers that the Board can set the salaries of the Manager. Ms. McCrory stated that it is under certain circumstances and this circumstance is that the Board is unable to hire a Manager.

Mr. Fujimoto stated that the bottom line is that he does not personally have the money to support any type of litigation that may occur if someone would sue the Board members personally on this legal opinion because they felt that the Board had issued an illegal contract by paying the Manager \$140,000.

Ms. McCrory stated that she has no problem to ask the County Attorney for a written legal opinion and felt that the County Attorney would defend the Board as the County Attorney would have told her otherwise.

Ms. McCrory discussed that the Board's initial attempt to just do it was turned down by the County Attorney, which was to make a rule amendment that authorized the Board to set the salary of the DOW Manager. As a result of that, Ms. McCrory decided to hire Goodsill to review this matter and to give a defensible legal opinion if there is one.

Mr. Fujimoto added that he wanted to bring up this matter at this time to make the other Board members aware of his concerns and that he would lean heavily on the County Attorney's written legal opinion.

Ms. McCrory moved to accept the position as stated in Goodsill's letters of August 9, 2006, September 20, 2006 and October 13, 2006 and pending a written confirmation of verbal discussions with the County Attorney on October 16, 2006 that will be the Board's position, seconded by Ms. Sakoda; motion was carried.

• **Actions Steps to Increase Water Manager's Salary**

There is nothing new to report since the last Board meeting.

Based on the discussion at the September Board meeting, Board members approved procuring a professional service contract with a company to assist with the management of the Department. To date, a solicitation notice has not been prepared and no action has been taken on this matter.

Charter Amendment

The Department is working with PR consultant Stryker, Weiner & Yokota to provide a media message to inform voters in the General Election on the merits of Charter Amendment No. 5. Tentatively, the consultant's are targeting delivering the radio and print messages starting on October 23rd until November 7th.

According to the consultants, for the general public, the "benefit" message is slightly difficult to grasp. They will work on preparing a message to highlight the importance of ensuring the

County Administration is able to attract and retain a qualified, experienced administrative and managerial staff. The message also cannot lobby one way or another.

Ms. McCrory stated that both print and radio ads should be done for a wider audience.

A preliminary cost estimate to complete this ad campaign is about \$13,500; the existing contract has sufficient funds remaining to cover the cost this item.

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

There is nothing new to report since the last Board meeting.

Mr. Fujimoto requested that the Board go into Executive Session.

Recess: 11:00 a.m. to 11:15 a.m. Ms. Debra Togioka and Mr. Tom Takatsuki were present at the meeting.

Re: 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 – July 18, 2006 and August 1, 2006

2. Executive Session

ES-1: Pursuant to Haw. Rev. Stat. §§92-4, 92-5(a)(4), the purpose of this executive session is to permit the Board of Water Supply to deliberate upon and consult with the Board's legal counsel on questions and issues relating to the hiring, evaluation, dismissal or discipline of an officer or employee where consideration of matters affecting privacy will be involved, with regards to fill the vacant Civil Engineer VII, EM-7 (Chief of Engineering Division) position within the Kauai County Water Department.

This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Board and the Department of Water as they relate to agenda item, Request Board's Reconsideration of its Previous Approval on the Reallocation Decision Made for the Engineering Division.

The Board may take any appropriate action or make any decision arising from its deliberations concerning this item, including approval or modification of the proposed settlement in this case. Actions may be taken or decisions may be made in executive session pursuant to Haw. Rev. Stat. §92-5(b).

Re: Request Board's Reconsideration of its Previous Approval on the Reallocation Decision Made for the Engineering Division

Recommendation:

Requesting the Board reconsider its action to remove the Engineering Division's EM-7 (CE VII) position and replace the EM-7 with two (2) EM-5 positions. Although the Board has the prerogative to abolish and create positions, the reallocation of position(s) should be an administrative function.

Based on the discussions at the September Board meeting, Board members requested the Department's personnel assistant Debra Togioka and the County's Department of Personnel Services' Personnel Management Specialist to be present to further discuss and clarify the reallocation procedures and process.

Chair Sokei read the Executive Session rules. There was no public testimony. *Mr. Kyono, Acting Manager Ushigome, the staff, and Mr. Defries were excused from the meeting.*

Mr. Costa moved to go into Executive Session at 11:18 a.m., seconded by Mr. Fujimoto; motion was carried.

The meeting reconvened at 12:50 p.m.

There was more discussion on the Board's reallocation decision in the Engineering Division. Mr. Fujimoto stated that a possibility would be to red circle the pay for the Water Resources and Planning Division (WR&P) Head's position and reallocate that position to an EM-5 to have EM-5s across the Board in both Engineering & WR&P Divisions. Deputy County Attorney Tagupa stated that this would have to be on the next Board Meeting Agenda in order to further discuss funding, position descriptions, etc.

Lunch Recess: 1:00 p.m. – 1: 35 p.m.

Mr. Kyono and Acting Manager Ushigome returned to the meeting.

Ms. McCrory explained to Acting Manager Ushigome that the Board had made a decision to reallocate the EM-7 position to an EM-5 position and also approved an additional EM-5 position. The 2 positions, one would be responsible for Water Plan 2020 and the other would be responsible for private community projects. Open recruitment will be done hopefully in a month for both positions. The DOW will also request for an extension for the Certification of Eligibles List for the EM-7 Position.

On query by Acting Manager Ushigome, the Board explained that the EM-7 position becomes 2 EM-5 positions and both positions would head and take care of their own sections. Also, the reason for extending the Certification of Eligibles List for the EM-7 Position, which will expire in November, 2006, is then the EM-7 applicants will still be active on the eligible list and can be reclassified to the EM-5 eligible list if so desired and need not re-apply to the EM-5 positions.

Also on query by Acting Manager Ushigome, Mr. Fujimoto stated that the EM-7 Eligibility List will be on an ongoing recruitment like the other Civil Engineer positions.

Mr. Fujimoto stated that the Board had previous discussions about getting 2 EM-7 positions but felt it was harder to justify and harder to fill. The 2 EM-5 positions were easier to justify since it would be reverting back to how it was previously at the DOW. It was also felt that good applicants could make top dollar at about \$90,000 and \$96,000, respectively, for either the EM-5 or EM-7 positions.

Ms. McCrory added that the Board would now also have to fund the new position and adjust the funding for the reallocated position.

Mr. Fujimoto also added that the new manager would have more flexibility to possibly reorganize and the Board discussed the possibility of red circling the pay of the present EM-7 and reallocating that position to an EM-5, which would make an even playing field. The new manager could then decide which position should be an EM-7 position.

Mr. Fujimoto added that the Board felt that hopefully the ongoing DPS compensation study may show that there should be a pay shift.

Mr. Fujimoto moved to supersede the prior motion on this personnel issue and to instead reallocate the EM-7 position to an EM-5 and to create another EM-5 position, which would revert back in time, seconded by Mr. Costa; motion was carried.

Mr. Fujimoto stated that the next Board Meeting agenda should include the funding of these 2 positions and discussion about whether to red circle and reallocate the present WR&P EM-7 position to an EM-5.

Re: Update on the Strategic and Business Plan and Needs Assessment for the Kauai County Water Department

Mr. Dave Jochim and Mr. Tom Cutting were present at the meeting.

Recommendations: The Department requests the Board review Amendment No. 3 to RW Beck's Professional Services Contract for Strategic and Business Plan and Water Plan 2020 Program Sustainability Services, Implementation of the Strategic and Business Plan. We recommend that RW Beck provide further clarification at the October Board meeting on their fee estimate and time (duration) in which they plan to complete the proposed scope of work. Although the fee estimate proposal specifies that due to the uncertain nature of activities, compensation will be on a time and material basis, if no time frame is provided, it becomes difficult to evaluate whether the cost is "reasonable".

In addition, the proposal indicated the hourly charges for staff personnel would be billed in accordance with the Contractor's Table of Billing Rates (Exhibit B of original contract); however, the billing rates identified in Exhibit B are only effective up to December 2006.

Finally, as part of Amendment No. 1, RW Beck submitted the following items for the Board's review:

- Revised Governance Policies of the Water Board, and;
- General Manager Job Description.

Again as a reminder, RW Beck plans to conduct their monthly updates with the Board to report on the progress of the Strategic and Business Plan summarizing the outcome and findings of the last Core Planning Team (CPT) meeting.

Also, as usual, a monthly workshop session will be conducted by RW Beck at the regular meeting. The Board workshop session is anticipated to take about 2 hours so the Board was reminded to set aside from 8:30 a.m. to 3:00 p.m. on their calendar to accommodate the Board meeting and update/workshops with RW Beck.

Mr. Jochim apologized for the lateness of the submittal of the draft Strategic Plan to the Board. The Board could later leisurely review the draft plan and submit their comments later.

Chair Sokei stated that for the Values that it should show action and start with 'The Department of Water employee will - which shows commitment. Mr. Jochim added that this will hold for Board members as well. Since the Board could not come up with the right words to encompass both the DOW employees and Board, Mr. Jochim recommended that the Core Planning Team (CPT) be consulted at the next day's workshop.

Mr. Jochim stated that the CPT will meet tomorrow and he will get their comments and at the next CPT meeting on November 1, 2006, he would like to combine both the Board and the CPT'S comments and produce as near as a final draft as possible with the final draft to be submitted at the November 21, 2006 Board Meeting.

(Note: The November 1, 2006 CPT workshop has since been re-scheduled to Friday, December 15, 2006.)

Mr. Jochim reported that Lynn Adams of RW Beck has been conducting the 3rd All Hands Meetings the day of this Board Meeting. To accommodate office coverage, there were 3 separate meetings that all employees could attend. These meetings were to keep all of the DOW employees up to speed on what the CPT has accomplished and is working on.

Mr. Cutting stated that it was said previously that this Strategic Plan will never be a perfect document but probably more like 80% correct. As this is a dynamic and fluid document, it will never be final; every year, this document will be updated and adjusted. Also, when emergencies come up, the plan would change overnight. He reminded the Board that when they review the Plan that they need to keep in mind that it is not a perfect document.

Mr. Jochim stated that although the Board wanted to speak to the County Council in December to give them an update of what the DOW is doing, the final Strategic Plan would probably not be ready by then.

Mr. Jochim reported that RW Beck had their design team on O'ahu to meet the consultants individually who are working on the water projects that will support the affordable housing projects. Their consultants also met with some of the State agencies that could help with the permitting process. Also, yesterday, Mr. Jochim, Wynne Ushigome, Keith Fujimoto, Bruce Inouye and Michael Hinazumi met with the design consultants again and they discussed a need to prepare a consultant schedule that would complete the 5 affordable housing water projects by the deadline date of December, 2008 as the present schedule would not have finished the 5 affordable housing water projects in time. The consultants were tasked to work on a comprehensive schedule by the day after this Board Meeting. Each task will have a deadline date and will identify risks that may be taken, what are the costs, and if schedules need to be adjusted. The consultants will work backwards from the deadline date of December, 2008 and they will figure out what needs to happen to meet that deadline.

Mr. Jochim that there will be some cases that our schedules would be dependent on others, like with the State lands as some issues need to be resolved with the Department of Land & Natural Resources (DLNR).

On query by Ms. McCrory, Mr. Jochim stated that the implementation of the Strategic Plan would take place between January, 2007 and December, 2007. Mr. Jochim added that Lynn Adams would be relocating to Kauai for about a 2-month period to help with the implementation of the Plan and he will be dropping by every so often. Thereafter, they will return to the DOW for about 1-week intervals on a regular basis to work with the staff. The frequency will depend on how things go.

On query by Ms. McCrory, Mr. Jochim stated that they will initially be working with staff on resolving hiring processes, employee/customer surveys during the 1st quarter to get a benchmark that would indicate our next steps, have reporting mechanisms in place to report to the Board, our stakeholders, County Council, etc.

Mr. Cutting added that on Page 3 of the Business Plan, the Tactics that are marked Critical would be the first things that would be worked on.

On query by Mr. Kyono, Mr. Jochim stated that Moss-Adams will be hired to do an audit of, for example, time frames that take to do certain repairs, etc. and how time is being reported and processed to ensure that there are checks and balances. Ms. McCrory added that it will be compared to industry standards.

On query by Ms. McCrory, Mr. Jochim stated that they met with the champions and compiled a very estimated budget to hire outside sources to assist with the Implementation Plan. The total rough estimated cost would be over a million dollars, with about \$250,000 for this first year.

On query by Mr. Fujimoto, Mr. Jochim stated that it would be up to the Manager and the co-champions to achieve this strategic direction, with the assistance of the co-champions, whom has a drive to see that the plan gets accomplished. RW Beck has promised to get the resources that the DOW can use to help accomplish their goals.

Mr. Cutting added that their job is to mentor and train the co-champions and the other staff members. Ms. McCrory also added that RW Beck will help to train the staff and give them the skills that are needed to accomplish the Plan.

Mr. Cutting stated that it is critical to upkeep momentum throughout this process and to have the Board 100% behind this process. He added that once the Board loses interest then it would trickle down to the staff.

Mr. Jochim added that to accomplish the short-term wins helps to reduce the cynicism with the staff.

On query by Ms. McCrory, Mr. Jochim stated that it was decided to hire Moss-Adams as their sub-consultant to expedite the hiring process.

Ms. McCrory moved to accept Amendment No. 3, Task 1, and Task 2, seconded by Mr. Fujimoto; motion was carried.

Mr. Jochim and Mr. Cutting further conducted a Board Workshop on the Strategic Plan after the adjournment of this Board Meeting.

Re: TOPICS FOR NEXT WATER BOARD MEETING

1. Board's Finance, Public Affairs, and Rules Committee Meetings
2. Strategic Plan Update
3. Request to Testify by William C. Rita on their Water Requirement for Subdivision No. 2006-42, Lot 88A, Kalāheo Homestead, 1st Series, Kalāheo, Kaua'i, Hawai'i
4. Request Board Approval of Funding of the New EM-5 Position in the Engineering Division

Re: TOPICS FOR FUTURE WATER BOARD MEETINGS

1. Board's Finance, Public Affairs, and Rules Committee Meetings
2. Kauai County Water Department Briefing on Departmental Projects (January, 2007)
3. Quarterly Report regarding Kaua'i County Water Department Manager's Top 4 Goals for 2006 (January, 2007)
6. Tentative Water Board Meeting Dates for the Year 2007 (November, 2006)
7. Old Business – Board Support of Affordable Housing (December, 2006)

Re: NEXT WATER BOARD MEETINGS

1. Tuesday, November 21, 2006, 10:00 a.m.
2. Thursday, December 14, 2006, 10:00 a.m.
3. Tuesday, January 16, 2007, 10:00 a.m.

Re: WATER BOARD'S UPCOMING EVENTS

1. DOW's Annual Employee Meeting & Brunch (December 14, 2006)

ADJOURNMENT

There being no further business, Ms. McCrory moved to adjourn the meeting at 2:25 p.m., seconded by Mr. Fujimoto; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

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