

MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, September 19, 2013

The Board of Water Supply, County of Kaua'i, met in regular meeting at the Board Conference Room in Lihu'e on Thursday, September 19, 2013. Chairperson Randall Nishimura called the meeting to order at 10:13 a.m. The following Board members were present:

BOARD: Mr. Randall Nishimura, Chairperson
Mr. Clyde Nakaya
Mr. Raymond McCormick
Mr. Larry Dill
Mr. Sherman Shiraishi
Mr. Hugh Strom

EXCUSED/ABSENT: Mr. Michael Dahilig

Quorum was achieved with 6 members present at the time of roll call.

STAFF: Mr. David Craddick
Mr. Kirk Saiki
Mr. Val Reyna
Mr. Keith Aoki
Ms. Marites Yano
Ms. Sandi Nadatani-Mendez
Mr. Dustin Moises
Ms. Regina Flores
Ms. Kim Tamaoka
Ms. Mary-jane Garasi
Deputy County Attorney, Andrea Suzuki

GUESTS: Mr. Michael Dyer, Kīlauea Crossings
Mr. Kamuela Cobb-Adams, Director Housing Agency
Ms. Barbara Pendragon, Housing Agency

ACCEPTANCE OF AGENDA:

Chair Nishimura requested a motion to rearrange the agenda and to move up Resolution 14-2 for Mr. Gregg Fujikawa and Resolution 14-3 for Mr. Mel Yamase after Correspondence/Announcements.

Mr. Shiraishi moved to rearrange the agenda as requested by Chair Nishimura to move up Resolution 14-2 for Mr. Gregg Fujikawa and Resolution 14-3 for Mr. Mel Yamase after Correspondence/Announcements; seconded by Mr. Nakaya; with no objections, motion was carried with 6 ayes.

MEETING MINUTES:

Review and approval of:

Regular Board Meeting – August 22, 2013

Mr. Shiraishi moved to approve the Regular Board Meeting minutes of August 22, 2013 as circulated; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

Review and approval of Executive Session:

Executive Session – August 22, 2013

Mr. Shiraishi moved to approve the Executive Session minutes of August 22, 2013; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

E. CORRESPONDENCE/ANNOUNCEMENTS

1. Correspondence from Mr. Peter Tausend, Chairperson, west Kaua'i Soil & Water Conservation Districts, dated August 28, 2013.

Mr. Dill moved to receive the correspondence from Mr. Peter Tausend, Chairperson, west Kaua'i Soil & Water Conservation Districts, dated August 28, 2013; seconded by Mr. Shiraishi; with no objections, motion was carried with 6 ayes.

F. BOARD COMMITTEE REPORTS

None

H. NEW BUSINESS

1. Resolution 14-2 Farewell to Mr. Gregg Fujikawa, Chief of Water Resources & Planning
Chair Nishimura passed on the reading of Resolution 14-2 since Mr. Fujikawa was not able to attend the meeting. The Resolution will be sent to Mr. Fujikawa.

Mr. Nakaya moved to approve Resolution 14-2 Farewell to Mr. Gregg Fujikawa, Chief of Water Resources & Planning; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

2. Resolution 14-3 Farewell to Mr. Mel Yamase, Accountant IV & Billing Supervisor
Chair Nishimura passed on the reading of Resolution 14-3 since Mr. Yamase was not able to attend the meeting. The Resolution will be sent to Mr. Yamase.

Mr. Nakaya moved to approve Resolution 14-3 Farewell to Mr. Mel Yamase, Accountant IV & Billing Supervisor; seconded by Mr. Shiraishi; with no objections, motion was carried with 6 ayes.

Chair Nishimura requested that Board members extend congratulations, best wishes and appreciation to Mr. Yamase for his years of service.

G. OLD BUSINESS

1. Special Board Meeting regarding Kahili Well held on September 17, 2013
Chair Nishimura announced that the Board, in addition to the verbal testimony given by several individuals, accept Mr. Frank O. Hay's written testimony.

The Board approved a request to the have the contractor provide a no cost change order to provide a robust economic feasibility study and to include alternatives for the Board to consider in deciding to move forward with the EIS. This change order would be in exchange for deletion of a traffic study.

It was noted by the Board's Department of Transportation's (DOT) representative that the traffic study may need to be put back in the scope at a later date depending on the nature of the comments that come in.

Mr. McCormick moved to receive Special Report Meeting Report regarding Kahili Well held on September 17, 2013; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

2. Manager's Report No. 11-28 – Part 5 Water System Development Fee (WSDF) and FRC Proposed Rules
 - i. Part 5 WSDF (7-18-13, rev 8-5-13)

Manager Craddick recommended the Board refer Part 5 Rules to the Rules Committee for coordination with changes that relate to Parts 2, 3, & 4 (Part 4 is with the Rules Committee).

Manager Craddick added one change to old Section X - Credit for grant funds was moved to new Section XI which would be using fixture units to determine all meters sizes.

Chair Nishimura questioned if Parts 2, 3, & 5 are ready for the Rules Committee to consider. Per Deputy County Attorney, Andrea Suzuki, she had not reviewed the current draft Rules prior to the Board meeting.

Mr. Shiraishi questioned Manager Craddick on the concerns stated on Page 1 of the Manager's Report, second paragraph "Part 5 is near completion except the concern for the grant fund credits."

Manager Craddick deferred and said it would be best for the Director of Housing, Mr. Kamuela Cobb-Adams to respond as it is an issue it supports.

Mr. Kamuela Cobb-Adams confirmed Affordable Housing supported the credits and was not sure what the concerns Mr. Craddick was referring to in the Board report. The cost of housing is going up and income is steady resulting in difficulty in providing affordable housing. Mr. Cobb-Adams would advocate for federal, state and Department of Water (DOW) grants to get credits for affordable housing projects which the proposed language accomplished.

DISCUSSION

Mr. Shiraishi inquired if the funding would be from another agency which Mr. Cobb-Adams confirmed. Mr. Cobb-Adams said instead of USDA providing the funds for affordable housing to pay for the water system, the funds could be directed to the DOW to improve water system projects. Those efforts could result in water credits in the same water system or other adequate systems. Affordable housing would have to get the grantor to say "yes" by writing a letter to the DOW that the funds could be used (i.e., Rice Camp or the senior housing in Līhū'e) and that the credits could be used from the grant. Mr. Cobb-Adams is in agreement with the concept of the language with the credit for grant funds and will pursue the funds for the DOW.

Manager Craddick added that the language was cleaned up from the old version which could only be used in the system the grant was for and the current version says the credits resulting from the grant can be used anywhere the system is adequate. For clarification this does not require use of the credits where the system was built. The system does however need to be adequate in order to use the credits in a particular system. If a project was done in Eleele and all

the credits were not used up and the Lihue system was okay, some of the credits could be given to Rice Camp if the other project was done with money provided by county housing.

Chair Nishimura questioned what would happen with the remaining credits in Eleele if housing came in for another project? Would they still get credits?

Manager Craddick commented that the longer the credits are being given out, the chances of all the credits being used up by other state beneficiaries increases.

Chair Nishimura inquired if this was addressed with the Rules Committee?

Manager Craddick said no, the credits are a new addition due to housings comments and that the credits can be used up by any beneficiary of the grant.

Mr. Cobb-Adams added that this allows the Affordable Housing agency to get a Community Development Block Grant (CDBG) which can be used only for water system improvements. If affordable housing could get CDBG money directly to the DOW for water improvement, which is possible, then water credits would be realized with affordable housing projects and a direct benefit for affordable housing because the grant was given only for housing.

Mr. Shiraishi noted on Page 1 of the report, second to the last paragraph stated "The staff agrees with utilizing fixture units to determine the impact fee." was confusing with that sentence because at a prior meeting on September 11th, the Department discussed using fixture units to determine the meter size rather than the impact fee. The report now reflects going back to using fixture units to determine the impact fee. Clarification was requested by Mr. Shiraishi to Manager Craddick if the Department was going to base the Water System Development Fee (WSDF) on the size of the meters.

Manager Craddick clarified that after the September 11th meeting, the staff wanted to use the fixture units to determine all the meter sizes from 5/8" meter size on up to 2".

Mr. Shiraishi questioned if the meters sizes are going to be used to determine the WSDF on a 5/8" meter regardless on the amount fixture units will it cost \$17,000?

Manager Craddick answered under the proposed language "no" because if fixture units are used it would be the basis of the impact fee. Twenty (20) fixture units could use a 5/8" meter and only 20 fixture units could be charged. A maximum charge would be for 30 fixture units.

Chair Nishimura expressed a concern because an impact fee based on the meter was previously discussed. Today, there could be 20 fixture units, next week 30 fixture units, the following week be 10 fixture units but can only charge once.

Manager Craddick agreed.

Mr. Dill gave an example if someone came in with an application for a meter with 20 fixture units and would pay the fee for 20 fixture units. What if the applicant expanded his residence and added 5 more fixture units, does the rule provide for charging additional WSDF?

Manager Craddick answered “no” additional charge could be collected. If the language were written to charge for additional fixture units, that could be done but once the customer has the meter, you cannot charge for the additional fixture units.

Deputy County Attorney, Andrea Suzuki commented that was not her opinion.

Mr. Shiraishi remarked he was confused because one of the reasons to why the DOW provides grants for affordable housing was to go for a fee for meter size. This is why the credits would benefit affordable housing as opposed to a fee for fixture units. An affordable home could have less than 30 fixture units and an affordable home would pay a lower development fee. The language has been changed so many times.

Mr. Shiraishi asked the Manager why was there a section on credits if the development fee is being based on fixture units?

Manager Craddick explained that having a fee based on fixture units still requires a fee payment. The fee could get down to nothing with credits which is an advantage for affordable housing. The Manager added it would be less risky to use fixture units to determine the meter size. Staff wanted to go with the meter size then flipped back to do fixture units. If this is incorrect, it can be changed and either way will work.

Deputy Manager, Kirk Saiki explained that the staff discussed using fixture units and not assessing the WSDF based on fixture units. A 5/8” meter would be sized to determine the fixture units for a home or development and there would be a set fee per meter.

Mr. Shiraishi understood after the September 11th meeting, this is what he understood.

Manager Craddick agreed.

Manager Craddick mentioned the next day and after discussion with Mr. Eddie Doi who wanted to go with fixture units.

Manager Craddick spoke to the other planning staff and revised the report to show fee based on fixture units.

Chair Nishimura understood at the meeting that the fixture units were only discussed to size the meter but not for the fee. The other questions discussed were what would be the methodology to size meters for 2” and above and whether the SAIC would support the rule.

Manager Craddick commented that if that is what was heard at the meeting that his report is wrong, he agreed to change to what was discussed at the meeting if that is the decision.

Mr. Shiraishi’s meeting notes reflected a compromise to use the fixture units only to size the meters and then to charge a set amount for that meter (5/8” meter charge of \$17,000). If the meter was more, the charge would be a higher meter charge regardless of the amount of the fixture units needed for the meter. Also discussed was to have staff provide guidance on charging meters in excess of 2”. Mr. Shiraishi’s expressed the problem of the Board rehashing old ground and not moving forward.

Mr. Shiraishi would like to speak with staff that will be implementing these rules and to be sure they are comfortable with the rules. A Standard Operating Procedures (SOP's) may be in place prior to enacting before the rules are implemented.

Mr. Shiraishi said he would like to go with a set fee based on the meter, which is simpler. If the grant section is used, it would accommodate affordable housing. These rules are not ready for the Rules Committee.

Manager Craddick confirmed that the SAIC report supports meter size. When staff said they wanted to go with fixture units, the sizing by meter size allowed up to 45 fixture units for ¾" meters. The Unified Plumbing Code allowed up to 54 fixture units. Staff is waiting for SAIC's response on why does the fee not go up to 54 fixture units.

This was not Chair Nishimura's understanding at the September 11th meeting. The report seemed to be for a fixture unit charge. The question was whether the report would support the meter size as a basis for the WSDF which is critical. The Board would not have the background to determine the meter size with no back up if it is not in the report.

Manager Craddick acknowledged the report is based on meter size (up to 8") which has fixture units and gallons to get to the same price. If someone can use an 8" meter up at 900 gallons a minute, \$1.2 million is not the cost based on the reports per gallon maximum. A customer should be charged if they need that type of flow. The suggestion was for 3" meter and up, the staff would look at the gallons used and the fixture units and to come up with a fee. The fixture units could range from 3" to 6" and the fixture units are not all the same on all the meter sizes. The water demands to size the meter would have to be looked at. The report does not cover this but no matter how the fee is determined either by gallon or by meter the report does cover the cost.

Chair Nishimura requested from Manager Craddick if the SAIC report will support the flat rate meter charge and to refer this back to the Department with legal review.

Mr. Shiraishi would like to have another meeting with staff.

Mr. Dill wanted to confirm if additional WSDF can be charged if a customer comes back with an additional building permit application which shows new demands based on additional fixture units or if the meter size is changed.

Manager Craddick explained if the meter sized changed there could be some additional charge but if the customer has already been charged the maximum number of fixture units then there would be no reason to charge any more.

Mr. Dill added that since the rule is not firm yet, if there was rule to charge by fixture unit and if someone came in with additional fixture units (but not for a larger meter), would the DOW charge additional WSDF?

Manager Craddick answered "no" it is his understanding the DOW could not charge additional WSDF.

Deputy County Attorney, Andrea Suzuki will write a formal opinion and will have County Attorney, Al Castillo review the opinion also.

Construction Project Management Officer, Mr. Dustin Moises commented that Mr. Cobb-Adams mentioned grant money may be funneled to the DOW. A lot of USDA requirements are not in line with the DOW's standards. Only in certain situations USDA will allow Ductile Iron pipe. If the rule is put in place, and the DOW takes the grant funding, the USDA would have to follow the DOW's standards. Mr. Moises suggested it may be better if the USDA manages the grant and to work with staff.

Mr. Cobb-Adams was aware of this and is working this out with Department Hawaiian Home Land (DHHL) in Anahola. He was okay with the grant as a result of improvement. The result of the grant must occur before the improvement which would solve the problem.

Mr. Dill moved to defer Manager's Report No. 11-28 – Part 5 Water System Development Fee (WSDF) and FRC Proposed Rules, i. Part 5 WSDF (7-18-13, rev 8-5-13) back to the Department for further analysis and review upon completion of legal review before submitting back to the Board; seconded by Mr. McCormick; with no objections, motion was carried with 6 ayes.

DISCUSSION:

Mr. Shiraishi pointed out a concern in the definition for "recoupment" in Section 5 that was only used one time which stated "recoupment shall be exempt from this section." Mr. Shiraishi was not sure why recoupment was defined.

Deputy County Attorney, Andrea Suzuki commented that the definition was from Hawai'i Revised Statutes (HRS) and needs to be included in the rules. Recoupment results when a facility is built with extra capacity, collection of the impact fee can be used to pay back what was spent on the oversizing of that facility. It is exempt from reservation because it does not have to be reserved because the project is already built.

Mr. Shiraishi's additional detail concerns were as follows:

1) Inconsistent terminology in the definitions for "Subdivision water system" and "Transmission pipeline" contained in Section II of Part 5. The definition for "Subdivision water system" refers to the "2002 State of Hawai'i Water Standards, as amended." The Definition for "Transmission pipeline" refers to the "Water System Standards." When questioned, Mr. Craddick stated that the "2002 State of Hawai'i Standards' is the same as "Water System Standards." There should be consistency and use of the same terminology throughout the rules.

2) Section V.A.1.a. should be revised and read, "The Applicant shall submit an affidavit, along with the Water Service Reservation Request, attesting to the current number of fixtures and the number of fixture units to be installed by the Applicant."

Section V: Water System Development Fee Computation

A. General Provisions

1. *An Applicant for new or additional water supply shall submit to the Department of Water a Water Service Reservation Request, which details the amount of fixture units existing if any and to be installed by the Applicant.*

a. *The Applicant shall submit an affidavit under penalty of false representations before a government official, along with the Water Service Reservation Request, attesting to the number of fixture units to be installed by the Applicant.*

3) Section V.A.6. was confusing to Mr. Shiraishi and should be re-written.

6. *The Department may negotiate a water system -development fee in the schedule when it is determined that the fee required is not the maximum allowed. The Department may also negotiate agreements with developers for payment of the actual costs of the installation of the necessary water system facilities or require the installation of the facilities by the developer in lieu of payment of water system development fees.*

4) Section VII.B. was confusing to Mr. Shiraishi and should be re-written.

Section VII: Refund or Reimbursement of WSDF

B. In the event the WSDF has been paid for a subdivision and subsequently the subdivision is reconsolidated reducing the number of buildable lots, the WSDF will be returned for the consolidated lots in the amount paid, provided the reconsolidation is completed within one (1) year following the prior subdivision approval.

Chair Nishimura requested the following from the Department:

- 1) Define “demand” – needs to be inserted into the definitions.
- 2) Define “interest” – needs to be incorporated which was not included (what interest will be used such as treasury style?). When money is refunded for unspent or unimproved WSDF, money needs to be refunded plus any applicable interest (not the interest rate).
- 3) Premises vs. Premise – was not corrected nor consistent throughout the rule.
- 4) Need to resolve the issue of the money that is split between two (2) lots (i.e., 5 lots which were consolidated into 2 lots based on what the water needs are).

Mr. Cobb-Adams summarized that Affordable Housing’s main goal is to get an offset (discount). Affordable Housing has been trying to be creative and for the DOW to be fiscally responsible to get the fees for DOW. Mr. Cobb-Adams appreciated Manager’s Craddick’s suggestion to consider the credits. This accomplishes two things: 1) for the DOW to be fiscally responsive and 2) for Affordable Housing to move forward. Rice Camp is subsidized 90% for construction to build the housing because the rents do not cover the building costs.

Affordable Housing is pushing for fixture units and has been reasonable working with the DOW. Fixture units benefit multi-family affordable housing with a 2” meter and value the fee by the fixture units. Adding fixture units probably would not be common in the multi-family units vs. a single family home. Mr. Cobb-Adams favors the larger meters to be priced by fixture units. There is a range of water use which is a fair payment for the fixture unit so that the design can be done accordingly for affordable housing projects. The rules reflect charging the same for a single family home vs. a multi-family home which have different fixture units.

Mr. Dill moved to defer Manager’s Report Manager’s Report No. 14-08 - Part 2, Water Service Connections and Part 3, Establishing Subdivision Standards Proposed Rules, i. Part 2 Water Service Connections, Section I, II, IV, V, VI, XIX, XX, XXI, and XXIV (8-5-13) (8-22-13), ii. Part 3 Establishing Standards for Subdivision Water Systems, Section I, II, III, IV, V, VI, VIII, IX, X, XI, XII, XIII, and XIV (8-5-13) (8-22-13), back to the Department for further analysis upon completion of a legal review before submitting back to the Board; seconded by Mr. McCormick; motion carried with 6 ayes.

3. Manager’s Report No. 14-08 - Part 2, Water Service Connections and Part 3, Establishing Subdivision Standards Proposed Rules
 - i. Part 2 Water Service Connections, Section I, II, IV, V, VI, XIX, XX, XXI, and

XXIV (8-5-13) (8-22-13)

- ii. Part 3 Establishing Standards for Subdivision Water Systems, Section I, II, III, IV, V, VI, VIII, IX, X, XI, XII, XIII, and XIV (8-5-13) (8-22-13)

Mr. Dill moved to defer Manager's Report Manager's Report No. 14-08 - Part 2, Water Service Connections and Part 3, Establishing Subdivision Standards Proposed Rules, i. Part 2 Water Service Connections, Section I, II, IV, V, VI, XIX, XX, XXI, and XXIV (8-5-13) (8-22-13), ii. Part 3 Establishing Standards for Subdivision Water Systems, Section I, II, III, IV, V, VI, VIII, IX, X, XI, XII, XIII, and XIV (8-5-13) (8-22-13), back to the Department for further analysis upon completion of a legal review before submitting back to the Board; seconded by Mr. McCormick; with no objections, motion was carried with 6 ayes.

H. NEW BUSINESS

3. Manager's Report No. 14-10 Special Counsel Contract #572: Kobayashi, Sugita & Goda, LLP for the representation of the Board of Water Supply, County of Kauai and the Manager and Chief Engineer of the Department of Water in the matter of Jennings Pacific, LLC, vs. Board of Water Supply of the County of Kauai, David R. Craddick in his official capacity as Manager and Chief Engineer of the County of Kauai Department of Water et. al., Civil No. 12-1-0284 (Fifth Circuit Court)

Deputy County Attorney, Andrea Suzuki reported that this request was to amend the current contract to add additional funds (\$25,000) for Special Counsel to continue litigation.

Mr. Nakaya moved to approve Manager's Report No. 14-10 Special Counsel Contract #572: Kobayashi, Sugita & Goda, LLP for the representation of the Board of Water Supply, County of Kauai and the Manager and Chief Engineer of the Department of Water in the matter of Jennings Pacific, LLC, vs. Board of Water Supply of the County of Kauai, David R. Craddick in his official capacity as Manager and Chief Engineer of the County of Kauai Department of Water et. al., Civil No. 12-1-0284 (Fifth Circuit Court) requesting additional funding; seconded by Mr. Shiraishi; with no objections, motion was carried with 6 ayes.

4. Manager's Report 14-11 Kīlauea Crossings, Michael M. Dyer Revocable Trust, TMK: (4) 5-2-009:008, Kīlauea, Kāua'i, Hawai'i

Manager Craddick recommended Option 5 (Not approve until the scope of the entire project is known and covered under the fire consultant study.)

BACKGROUND:

Manager Craddick reported that Mr. Dyer would like to renovate some existing structures and add small structures. The problem is the fire system for Kīlauea is inadequate for the zoning given. This is a liability issue for the Board and that if it allows the building conversions knowing the fire system is inadequate what liability are they taking on. The Fire Department is relying on the DOW staff action because it has the primary jurisdiction for fire flow and the fire code has not yet been changed to require sprinkler systems in all retrofits and new construction which could reduce fire flow demand. The DOW is reluctant to just pass this to the Fire Department saying the DOW will approve what it approves.

Options:

1. Not approve the project without adequate fire flow.
 - a. Pros: Safe for the Department and County.

- b. Cons: Does not allow the property owner to build in accordance with zoning.
- 2. Approve the project with no requirements.
 - a. Pros: No responsibility for the developer.
 - b. Cons: High liability for the Department and County.
- 3. Approve the project with an agreement of liability waiver protection for the DOW and County.
 - a. Pros: Some risk removed for the Department and County.
 - b. Cons: Added cost to the developer.
- 4. Approve the project with protection and insurance covering the DOW and County.
 - a. Pros: Some risk removed and insurance is provided.
 - b. Cons: Added cost to the developer.
- 5. Not approve until the scope of the entire project is known and covered under the fire consultant study.
 - a. Pros: Full scope of the project will be known and covered under the fire consultant's report.
 - b. No risk for the Board or County at this time.
 - c. Cons: Added cost and delay to the developer

Chair Nishimura inquired if this request was attached to the previous application for a building permit.

Manager Craddick confirmed the previously submitted application building permit was not held up and that Mr. Dyer received his building permit. The current request was for the remaining structures.

Mr. Michael M. Dyer revocable Trust, Kilauea Crossing provided his testimony.

Mr. Michael Dyer explained that the plans were not completed for the future building and improvements. The plans to retrofit existing buildings were at the request of new tenants. The first request was from the first retail store tenant that wanted a loading dock. Along with their internal tentative improvements, Mr. Dyer submitted plans for a loading dock building permit. All interior improvements were approved but the amended water system Standards 11-19a did not have sufficient fire flow for retail shops. He was not allowed to add a square foot to the building when the study was done by the consultant. A study eventually was done and the other permits passed. To build the loading dock took two (2) years plus the cost of the consultant. Additional costs exceeded the cost of the loading dock.

The DOW staff approved a waiver for the loading dock and within 10 days it was built. Mr. Dyer plans to add decking and ADA ramps connecting between the existing small buildings. Currently the zoning allows for 7,000 sq. ft. allowable space on a single story to be built on the property and has about 3,100 sq. ft. to build. If Mr. Dyer does a new building, he would check with the DOW if a sprinkler system would have to be done. There are no projects planned. The problem with retrofits is the mitigation whether to put a sprinkler over an loading dock or a open deck? The consultant indicated there is 1,365 gallons per minute at 20 psi was more than sufficient for the small wood frame structures.

Mr. Dyer appreciated Manager Craddick providing a solution but would not know what the project would be. The recommendation does not fit and would have to do the project over again

with the consultant saying the same thing. The Fire Department and the DOW staff found that the plans were acceptable.

Chair Nishimura understood where Manager Craddick and the Department was coming from and waivers were given for previous projects. The projects became a little different from the first plans when the waivers were requested.

Options 3 and 4 would provide some projection for the Department as confirmed by Manager Craddick. Deputy County Attorney, Andrea Suzuki would work out a liability agreement with Mr. Dyer which may be faster.

Mr. Strom inquired where is the liability for the Department?

Chair Nishimura clarified that the Fire Department only signed off for one (1) improvement and the consultant did not sign off at the time. When the improvement that was made, the consultant did sign off.

Manager Craddick added that the Water System Standards for commercial area are for 2,000 gallons a minute. If the Department were to sign off and if someone were to die or get hurt the DOW would end up at a court case with a paper trail that the permit was approved and fire flow not adequate. The Department did not see anything from the consultant if they would take responsibility if someone got hurt. A paper trail is important to show that the fire flow is inadequate.

Mr. Dill requested clarification if the DOW executed a liability waiver would it allow Mr. Dyer to build a loading dock, rest rooms. If he came in for an expansion of a new building, he would be required to get fire protection so that 2,000 gallons per minute are met.

Manager Craddick mentioned that the liability waiver would need legal assistance but the developer would pay for it.

Mr. Dill asked if that meant the DOW would waive all future requirements regardless of any kind of construction. If a new building were to be built, would the DOW require a waiver to put in sprinklers? Would this requirement be waived?

Manager Craddick commented that the waivers would be specific (not a blanket waiver). The legal language would be worded and restricted so that the developer does not have to come in for every single waiver on the small buildings.

Mr. Dyer stated the next building proposed would be a public restroom built out of hollow tile. If the consultant recommended a sprinkler, it could be done. The challenge is how to mitigate a deck, loading dock and a restroom. He would then have to ask for a waiver.

Mr. Dill requested the Department to identify in the waiver on what Mr. Dyer was looking for.

Deputy County Attorney, Andrea Suzuki indicated this issue could come back to the Board.

Mr. Strom suggested that any uninhabitable improvements should be considered. If a restroom were to be added, it would need to come back for a waiver. ADA ramp accessibility would be

simple to come back to the Board for a waiver. If the building is to occupy more people, then the liability of fire control would be a different situation.

Not only occupancy as a liability but how things are stored which Manager Craddick added. The Department does not monitor how things are stored. Incorrect information may be given on what is stored. The DOW is not taking any liability if information is given or not.

Mr. Shiraishi would like to work with Mr. Dyer to permit him to build a deck, ADA ramps if there are no additional water demands. It would be hard to craft a waiver, indemnification and duty to defend if the DOW does not know what Mr. Dyer wants to do.

Chair Nishimura proposed to have the Department work with the applicant to approve Options 3 & 4 and issues acceptable to the Department. This needs to come back to the Board if there are any road blocks. This would mitigate some of the liability and would define the limits of what the waiver would cover.

Mr. Shiraishi agreed with Mr. Strom as long as the waiver does not increase occupancy or square footage and does not have any problems with restrooms, ADA ramps or moving or walls and is in support of Options 3 & 4.

At 11:26 a.m. called for a recess.

At 11:39 a.m. reconvened the Regular Board meeting.

Mr. Dill questioned if this would exclude anything that would not be a renovation of an existing structure. What if there was a trash enclosure? Would this be included that would be covered?

Chair Nishimura was leaving the discretion up to the Manager.

Mr. Shiraishi moved to 1) receive Manager's Report 14-11 Kīlauea Crossings, Michael M. Dyer Revocable Trust, TMK: (4) 5-2-009:008, Kīlauea, Kaua'i, Hawai'i, 2) to adopt Options 3 & 4 of the Manager's Report and to 3) the developer to work with the Department regarding specific renovation requests which does not affect occupancy or increase in leasable space. For example, improvements to comply with ADA access would be allowable; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

5. Review of Board Policy No. 2 – Lowering of Pipeline Proposed New Language (2-12-1970, rev 7-25-13)

Chair Nishimura pointed out that Board Policy No. 2 language was previously revised and approved but wanted to concur with the Board. There were several changes made to the language prior to publishing Board Policy No. 2.

Mr. Shiraishi moved to receive and reconfirm the adoption of Review of Board Policy No. 2 – Lowering of Pipeline Proposed New Language (2-12-1970, rev 7-25-13); seconded by Mr. McCormick; with no objections, motion was carried with 6 ayes.

6. Review of Board Policy No. 3 – Expenditure of Water Utility Funds Proposed New Language (10-17-2006)

Chair Nishimura indicated this was redone from the old Board Policy No. 3.

Manager Craddick *withdrew* the report Review of Board Policy No. 3 pending comments from the accounting staff.

7. Manager's Report No. 14-12 - Board Policy No. 28 – Replacement or Refurbishment of Existing Water Systems and Mobile Equipment

Manager Craddick *withdrew* Manager's Report No. 14-12 - Board Policy No. 28 – Replacement or Refurbishment of Existing Water Systems and Mobile Equipment.

STAFF REPORTS

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

PRESENTATION:

Manager Craddick presented the Budget Status Summary as of July 31, 2013.

Chair Nishimura questioned the Water Utility Expenditures for Public Relations (line 36, 13%) which Manager Craddick explained was for radio ads and the newspaper for water conservation.

Manager Craddick clarified that the Limtiaco contract was related to the rates and the WSDF which were the scoped items.

Chair Nishimura asked Manager Craddick if there were any problems with the audit to date. Manager Craddick indicated the auditors have not confirmed anything. The auditors are dealing with the issues that were brought up last time on the billing and CC&B. The audit will be completed on time. There will be a single audit because the Department has more than a half a million dollars in Federal funds. No change order would be needed and will not delay the audit.

Waterworks Controller, Ms. Yano was not aware of any problems with the single audit. There has been difficulty with the accounts receivable.

Mr. Shiraishi moved to receive Statement of Kaua'i County Water Department's Revenues and Expenditures update and Audit Status Report; seconded by Mr. McCormick; with no objections, motion was carried with 6 ayes.

Re: Report by the Public Relations Specialist on Public Relations Activities

Chair Nishimura informed the Board that the PR report was done by Ms. Garasi and introduced Ms. Kim Tamaoka as the new PR Specialist.

PRESENTATION:

Ms. Tamaoka reminded the Board that Project Wet is next Thursday, September 26th which was headed up by Information Tech Specialist, Ms. Sandi Nadatani-Mendez and intern Ms. Bryanna Pacleb. A Waipouli pipeline replacement dedication will be held Wednesday, September 25th.

Press Releases:

September 11th – DOW issued a water shutdown out to Wailua Houselots community to allow Goodfellow Bros., Inc to tie into the DOW's existing system.

TGI Articles:

September 11th – Commission approved \$8M DOW project

September 13th – Well drilling meetings to resume

The Fun Committee worker appreciation event is schedule for Friday, October 4th.

The Water Committee announced the 2nd quarter was awarded to the Hydrant Crew Mr. Raymond Chow and Mr. Russell Yonohara.

Mr. Nakaya moved to receive the Report by the Public Relations Specialist on Public Relations Activities; seconded by Mr. Shiraishi; with no objections, motion was carried with 6 ayes.

Re: Chief of Operation's Summary Report on Monthly Operational Maintenance

PRESENTATION:

Mr. Reyna reported the interviews for Utility Worker, Lead Pipefitter and Meter Mechanic were conducted and recommendations were made to hire. Last month Chair Nishimura inquired about Operations very low total hours. There was an error which only reflected one half a month.

The motor replacement is 75% complete on the old motors with premium efficiency motors.

Mr. McCormick moved to receive Chief of Operation's Summary Report on Monthly Operational Activities Report; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

Re: Manager's Monthly Update Regarding Activities of Note of the Kaua'i County Water Department

PRESENTATION:

Manager Craddick highlighted the following DOW activities in September 2013:

1. CONTRACTS AWARDED/EXTENSION/AMENDMENTS:

(1) CONTRACT #575 GS-2014-1 AWARDED TO MIDPAC AUTO CENTER dba Kūhi'ō AUTO GROUP IN THE AMOUNT OF \$120,001.00 FOR ONE (1) SUV 4-DOOR 4-WHEEL DRIVE & TWO (2) 4-WHEEL DRIVE EXTENDED CAB PICKUP TRUCKS WITH ACCESSORIES

(2) CONTRACT #570 AWARDED TO FOUR WINDS GROUP, INC. TO EXTEND CONTRACT SERVICES FOR AN ADDITIONAL SIXTY SIX (66) CALENDAR DAYS WITH NO ADDITIONAL FUNDING

(3) CONTRACT #574 AWARDED TO FOUR WINDS GROUP, INC. IN THE AMOUNT OF \$55,250.00 FOR PROFESSIONAL SERVICES FOR THE MAINTENANCE & MANAGEMENT OF THE DOW'S COMPUTERIZED MMIS/M-PET SYSTEM

(4) EMERGENCY PROCUREMENT CONTRACT #577 AWARDED TO OASIS WATER SYSTEMS IN THE AMOUNT OF \$73,436.32 FOR THE REPLACEMENT OF PUMP AND MOTOR ASSEMBLY FOR LAWAI WELL NO. 2

(5) CONTRACT #576 IN THE AMOUNT OF \$60,000.00 AWARDED TO EUROFINS/EATON ANALYTICAL FOR LABORATORY TESTING SERVICES

(6) CONTRACT #538 AWARDED TO ESAKI SURVEYING & MAPPING, INC. EXTENSION OF CONTRACT FOR AN ADDITIONAL SIX (6) MONTHS WITH NO ADDITIONAL FUNDING

2. Personnel Matters Update – Refer to report for details.
3. Warrant Vouchers were paid in the amount of - \$1,018,971.20 was incorrect (due to a miscommunication from Fiscal). The correct total amount is \$1.6M was provided by Mr. Yano.
4. Conveyance of Water Facility – \$31,383.10 for five (5) conveyances.
5. CC&B Billing System Update – Details were provided in the report.
6. IT Strategic Plan Update – The Department informed the person who wanted the contract that the Department wanted bond coverage at no additional cost.

At 11:58 a.m. Mr. Strom was excused for a few minutes.

7. Customer Service Training – Ms. Garasi coordinated a two-day Customer Service training with all divisions who attended. The turnout of staff (except field operations) and feedback was great. Resources were made available for staff who requested books and DVD's as well as a request to have the trainer return.
8. Update on correspondence from Ms. Cathy Adams, Civil Service Commission Chairperson – Manager Craddick attended a meeting with Human Resources (HR) Manager II, Ms. Janine Rapozo. The DOW will be transferring the personnel medical files to HR. The DOW have been discussing the personnel files and will make a determination. Letters have been sent to the unions to see if the DOW can look at files in the Department or in another location. A response is still pending. The other three (3) water departments have responded. Maui's water department does not have personnel files with their county's HR office. Manager Craddick commented that if the DOW has to make the most trips to see the files, then the files should remain in the Department. If HR has to make the most trips, then the files would be located in HR.

DISCUSSION:

Mr. Shiraishi thought that a decision was made at the last Board meeting that the personnel files would be sent to HR. The question was if the DOW can keep a mirror file.

Deputy County Attorney, Andrea Suzuki mentioned that Deputy County Attorney, Marc Guyot handles HR issues and could better address the question of mirror files which could be addressed today.

When employees want to look at their personnel file, they cannot be on company time which Manager Craddick clarified.

Ms. Yano added that some files are kept as a back up in the Department during audit time. Chair Nishimura questioned if the other counties have an HR department. He did not want to cost the rate holders more money to create an HR department if it meant duplicating what is being done in HR. If it will cost to have four (4) more positions at \$90,000, Chair Nishimura would rather have the files sent to HR.

Manager Craddick commented that there has been no change in the work HR is doing now for the DOW.

Mr. Shiraishi questioned the replacement of the three (3) vehicles and if the bids go out to the Kaua'i dealers.

Mr. Moises explained that only two (2) dealers responded. The bid solicitation was sent to the newspaper and the State procurement website. Previously the bid was sent out in July with no responses. In August, the bid was sent out again.

Mr. Nakaya moved to receive the Manager's Monthly Update and for the Manager to continue to provide a status report to the Board regarding the personnel file issues and to send a copy of the status to the Civil Service Commission until this issue is resolved; seconded by Mr. Shiraishi; with no objections, motion was carried with 5 ayes.

Chair Nishimura will respond to Ms. Catherine Adams, Civil Service Commission Chairperson's July 31, 2013 correspondence and to let Ms. Adams know that Manager Craddick will provide a status report to the Board regarding the personnel files until the issue is resolved.

a. Report of the BAB Bond pay down as of August 2013

Chair Nishimura questioned if the Department is on schedule for the bond pay down.

Manager Craddick reported the new building is expected to bid in December. In February the bids would be in.

Mr. Moises noted that the building is not included in the BAB projection after the recent budget approval. Designs have been pushed back depending on when they are done. From the current projection, the Department would not encumber until March 2014.

Mr. Aoki provided information on design on some projects with BAB funding but are at a stale mate resolveing land issues.

Manager Craddick indicated the Grove Farm tank could move forward to supply water to Kaua'i High School and the Safeway project.

Mr. McCormick moved to receive Report of the BAB Bond pay down as of August 2013; seconded by Mr. Shiraishi; with no objections, motion was carried with 5 ayes.

TOPICS FOR NEXT WATER BOARD MEETING (October 2013)

1. Leak Rebates

*Note: Leak Rebates will be moved from the Rules Committee to the Board.
Chair Nishimura will forward supporting documents to Mr. Shiraishi.*

2. Public Hearing – Benefit Zone

3. Proposed CIP Status Budget

4. Tentative Board Meeting Date for 2014

TOPICS FOR FUTURE WATER BOARD MEETINGS

1. Draft Annual Audit (November 2013)

Note: Ms. Yano will inform the Board when the Annual Audit draft report is ready which may be presented at a Special Board meeting (due to the Board meeting being moved up from October 24th to October 17th) (November 2013)

2. Discussion on Board Policy – Inter-fund Borrowing (November 2013)
3. Election of Officers for 2014 (December 2013)

UPCOMING EVENTS

1. HWWA Hawai'i Section Maui, HI (October 23-25, 2013)
2. AWWA 2014 Hawai'i Section Committee Conference, O'ahu, HI (May 6-9, 2014)
3. AWWA 2014 National Conference, Boston, MA (June 8-14, 2014)
4. HWWA 2014 Kaua'i, HI (October 15-17, 2014)

The Agenda meeting is scheduled for Wednesday, October 9, 2013.

NEXT WATER BOARD MEETING

1. **Thursday, October 17, 2013, 8:00 a.m.**
2. Thursday, November 21, 2013, 10:00 a.m.
3. Thursday, December 19, 2013, 10:00 a.m.
4. Thursday, January 23, 2014, 10:00 a.m.

Deputy County Attorney, Andrea Suzuki read the Executive Session languages for Items #1, #2 and #3.

I. EXECUTIVE SESSION

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

1. Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to provide the Board with a briefing regarding communications from HGEA. This briefing and consultation with the Board counsel involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the Department as they relate to this agenda item.

Mr. Dill moved to go into Executive Session for Item #1; seconded by Mr. Shiraishi; with no objections, motion was carried with 5 ayes.

2. HRS92-5a (2) & (4) To consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Board's attorney in questions and issues pertaining to the Board's and County's powers, duties, privileges, immunities, and liabilities as it relates to this agenda item.

Mr. Dill moved to go into Executive Session for Item #2; seconded by Mr. Shiraishi; with no objections, motion was carried with 5 ayes.

3. Pursuant to Hawaii Revised Statutes (HRS) Section 92-4, 92-5(a)(4), the Office of the County Attorney requests an Executive Session with the Board to provide the Board with a briefing on Jennings Pacific, LLC, vs. Board of Water Supply of the County of Kauai, David R. Craddick in his official capacity as Manager and Chief Engineer of the County of Kauai Department of Water et. al., Civil No. 12-1-0284 (Fifth Circuit Court) and related matters. This briefing and 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.

Mr. Dill moved to go into Executive Session for Item #3; seconded by Mr. Shiraishi; with no objections, motion was carried with 5 ayes.

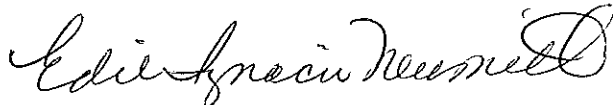
At 12:45 p.m. Mr. Strom entered Executive Session.

At 2:38 p.m. Chair Nishimura reconvened the Regular Board meeting.

ADJOURNMENT

Mr. Shiraishi moved to adjourn the Regular Board meeting at 2:39 p.m.; seconded by Mr. Dill; with no objections, motion was carried with 6 ayes.

Respectfully Submitted,



Edie Ignacio Neumiller
Commission Support Clerk

Approved,



Sherman Shiraishi
Secretary – Board of Water Supply