

MEETING MINUTES  
BOARD OF WATER SUPPLY  
September 27, 2019

The Board of Water Supply, County of Kaua'i, met in regular meeting at the Board Conference Room in Lihu'e on Friday, September 27, 2019. Chair Thomas Canute called the meeting to order at 10:03 a.m. The following Board members were present:

BOARD: Mr. Thomas Canute, *Chair*  
Ms. Laurie Ho  
Mr. Ka'aina Hull  
Mr. Elesther Calipjo

EXCUSED: Mr. Lawrence Dill  
Mr. Kurt Akamine

Quorum was achieved with 4 members present at Roll Call.

STAFF:

Mr. Bryan Wienand	Mr. Darrell Acob
Mr. Ryan Smith	Mr. Dustin Moises
Mrs. Marites Yano	Mr. Valentino Reyna
Mrs. Mary-jane Akuna	Mr. Eddie Doi
Mr. Eric Fujikawa	Mr. Keith Aoki
Mrs. Jonell Kaohelaulii	Mr. Carl Arume
Deputy County Attorney Mahealani Krafft	Mr. Michael Hinazumi

GUESTS:

Mr. Hall Parrott, Private Citizen	Ms. Karin Warganich
Mr. Godwin Esaki, Farmer	U. Esaki
Mr. Gerry Ornellas, Kapa'a Homestead Farmer	Ms. Joni Esaki

**C. ACCEPTANCE OF AGENDA**

Ms. Ho moved to accept the Agenda; seconded by Mr. Hull; with no objections, motion was carried with 4 ayes.

**D. MEETING MINUTES**

**Review and approval of:**

Regular Board Meeting – August 23, 2019

Mr. Hull moved to approve the Regular Board Meeting minutes of August 23, 2019; seconded by Mr. Calipjo, with no objections, motion carried with 4 ayes.

**E. CORRESPONDENCE/ANNOUNCEMENTS/PUBLIC TESTIMONY**

*Mr. Godwin Esaki, Farmer provided his testimony regarding  
Old Business, No. G1, Manager's Report No. 19-60*

Mr. Esaki thanked the Board and their understanding relating to his property. He previously came to the Board and signed the contract in good faith and trusted that this would turned out to be a win-win situation. The project and update to his understanding on the renovations were appreciated. He is not willing to accept the liability issue. He thinks there is more to what he saw from the beginning of the project and this needs to be addressed until it continues to the end.

Mr. Esaki added to his testimony and reminded the Board that the attorney involved recommended that the other farmers in this area did not have to sign this contract. This is the same attorney who drew up the contract that he signed.

***Mr. Gerry Ornellas, Kapa'a Homestead Farmer provided his testimony regarding  
Old Business, No. G1, Manager's Report No. 19-60***

Mr. Ornellas provided background information and felt responsible of what happened. A couple of years ago, he received a call from the Acting County Engineer about this project and the need to get rid of some of the water. At that time, the proposal would put it in the East Kaua'i irrigation ditch that runs along Kaapuni Road. Mr. Ornellas explained that East Kaua'i does not own the system but is owned by the State of Hawai'i. Negotiations would take place with the Department of Land and Natural Resources. There were other issues involved dealing with the nature of the discharge which would be intermittent. For an open ditch, there are safety issues involved. In this case, it is a clear taking of Mr. Esaki's property rights.

The National Pollutant Discharge Eliminations System (NPDES) is a Federal law. The water being discharged is not potable quality. He asked what is in it? Could the County definitively say that there are no pollutants in the water. They cannot get rid of it (pollutants) because it is being put in the potable system. The Federal permit says that any water entering a navigable water way, requires a permit from the Federal government. Navigable water is considered anything that drains into the ocean. If this discharge that leaves Mr. Esaki's property would require one of the NPDES permits. As a farmer and property owner, he feels for Mr. Esaki. The Board needs to take a close look at this project. There are issues that goes beyond what is on the surface such as liability issues. The County has absolved themselves of all liability and he doesn't think this can be done. Mr. Ornellas suggested to slow this process down and to sit at the table to work something out with Mr. Esaki. This is a clear taking on the part of the County. The Board is the watchdog for the Department of Water (DOW). Mr. Ornellas has been on Boards and Commissions and mentioned the Board does not have to take staff recommendations.

Chair Canute noted that the Board will be taking this matter up in Executive Session and will discuss getting back to Mr. Esaki in writing after a decision is made possibly today.

**DISCUSSION:**

Ms. Warganich asked if the decision will include the neighboring properties? Chair Canute said a decision would be made and will be provided in writing.

***Ms. Karin Warganich provided her testimony regarding  
Old Business, No. G1, Manager's Report No. 19-60***

Ms. Warganich has a property behind Mr. Esaki's property. She wanted to make sure that in the Executive Session, discussion would include what will happen to the drainage water. The water ends at Mr. Esaki's property but directly goes into Paul and Charlie Esaki's property and her property. This would erode their land. She wants to know what is in the water and if it will affect her crops because it is Ag land.

**F. BOARD COMMITTEE & PERMITTED INTERACTION GROUP REPORTS**

None.

**G. OLD BUSINESS**

1. Manager's Report No. 19-60 - Discussion and Possible Action for Water Plan 2020 Project No. WK-39 Drill & Develop Kapa'a Homesteads Well No. 4 & Package A-Well and Drainage Package of Water Plan 2020 Project No. WK-08, Job No. 02-14, Kapa'a Homesteads 325' Tanks, Two 0.5 MG Tanks Projects, Kapa'a, Kaua'i, Hawai'i for additional construction funding in the amount of \$140,843.18 (*Update*)

Chair Canute moved to defer Manager's Report No. 19-60 to the October Board meeting; seconded by Ms. Ho; with no objections, motion carried with 4 ayes.

*Ms. Ho exited the meeting at 10:15 am and returned at 10:15 am.*

## **H. NEW BUSINESS**

1. Manager's Report No. 20-14 - Discussion and Possible Action for the Board of Water Supply to enter into Utility Agreement No. 2272 with the State of Hawai'i in association with the State Department of Transportation's upcoming HI STP SR 560(1), Wainiha Stream Bridges Nos. 1, 2, and 3 Project, Wainiha, Kaua'i, Hawai'i

### **BACKGROUND:**

Manager Wienand mentioned that there is no cost to the Department with the State Department of Transportation (DOT) on the three Wainiha Stream Bridges Nos. 1, 2, & 3. He recommended that the Board approve this agreement with the DOT and approval on the indemnification under the recommendation.

Mr. Hull moved to approve Manager's Report No. 20-14 - Discussion and Possible Action for the Board of Water Supply to enter into Utility Agreement No. 2272 with the State of Hawai'i in association with the State Department of Transportation's upcoming HI STP SR 560(1), Wainiha Stream Bridges Nos. 1, 2, and 3 Project, Wainiha, Kaua'i, Hawai'i; seconded by Mr. Calipjo; with no objections, motion carried with 4 ayes.

2. Manager's Report No. 20-15 - Discussion and Possible Action on the Appropriation of funds for Special Counsel to provide general civil litigation and related services

### **BACKGROUND:**

Manager Wienand said the County Attorney's Office lost one of their staff members who was assigned to a case where the Department is named as a party. The funds provides Special Counsel services for continued support. Specific questions could be discussed in Executive Session.

Mr. Hull moved to discuss Manager's Report No. 20-15 in Executive Session at the end of Agenda; seconded by Ms. Ho; with no objections, motion carried with 4 ayes.

Mr. Hull moved to approve Option 1 (Approve the appropriation of transfer of funds for \$25,000); seconded by Mr. Calipjo; with no objections, motion carried with 4 ayes.

3. Discussion and Suggestions of the Department of Water's Capital Improvement Projects for 2020-2021

### **BACKGROUND:**

Manager Wienand presented the Capital Improvement Projects (CIP) for Fiscal Year 2020-2021 that will be submitted to the State Legislature for funding (page 53). The top four (4) priority projects are listed on page 53 that are nearly ready for construction from the designs to be completed. The priority projects also were factored in with the Water Rate Study that is almost complete. Priority #4 DOW's Baseyard Master Plan will be done in detail at the October 7<sup>th</sup> workshop. Design funds are requested for Phase 1 of this project. The design would be started in the next two years. Priority #'s 1, 2, & 3 were submitted in last year's legislative package.

### **DISCUSSION:**

Mr. Hull questioned Priority #2 Hā'ena State Park water system construction cost for the DOW. Manager Wienand said the estimate is \$5M. Mr. Hull suggested the Manager check with the Administration regarding any funds available through Act 12 moneys instead of passing it on the rate payers.

Ms. Ho requested on Priority #3 Storage Tank to add a State facility that would help or enhance an elementary school. Manager will look further into the plan for the Kīlauea area regarding State facilities and proposed developments. Chief of Water Resources and Planning Mr. Edward Doi added that the existing school has a water meter and constructing a tank would provide more capacity and redundancy. Currently there is a shortage for source and storage for Kīlauea that would lift the existing restrictions and would provide additional source. Installing a tank would satisfy and lift one restriction.

Mr. Hull asked what is the projected cost for Priority #4? Manager Wienand said the design cost is about \$1.5M. - \$1.6M. The construction cost would be substantial the next 5 – 10 years.

**I. CONSENT CALENDAR**

None.

**I. STAFF REPORTS**

**MONTHLY**

1. Discussion and Receipt of the Kaua'i County Water Department's Statement of Revenues and Expenditures
  - a. August Monthly Summary Budget
  - b. Accounts Receivable Aging Summary

**BACKGROUND:**

Waterworks Controller Mrs. Yano highlighted the following:

1. The Audit is almost done and will be presented at the November Board meeting.
2. Water Rate Study – will go to the Finance Committee members.
3. Water Audit to begin in December.

Received for the Record

2. Discussion and Receipt of the Report by the Information & Education Specialist on Public Relations Activities

**BACKGROUND:**

Information and Education Specialist Mrs. Jonell Kaohelaulii highlighted the following:

1. Education and community outreach was statewide & locally at the Joint Water Conference the past month.
2. Participated at the STREAM Night at Kekaha Elementary School.
3. Make a Splash (MAS) was on September 27<sup>th</sup>. MAS will be discussed further at the October Board meeting.

Received for the Record

3. Discussion and Receipt of the Chief of Operation's Summary Report on Operational Activities

**BACKGROUND:**

Chief of Operations Mr. Reyna provided highlights:

1. Personnel – Operations continues to attend trainings and interviews are ongoing.
2. Overtime – declined in August but in September it will increase due to back-to-back overnights in Kapa'a on mainline repairs.
3. Non-revenue water – stable the past three months.

Received for the Record

4. Discussion and Receipt of the Manager and Chief Engineer's Monthly Update Regarding Activities of Note of the DOW

**BACKGROUND:**

Manager Wienand highlighted the following:

1. Contract Awarded for Anahola Well A Pump.
2. Personnel Matters (page 90) – On-going across divisions; September had 2 new hires, 3 internal promotions. Department is proactive in recruiting on vacancies. The IT vacant positions are critical and Department is working with Department of Human Resources toward recruitment.
3. Customer Care & Billing (page 91) – New Customer Account Portal (CAP) was launched. There will be upcoming CAP changes by obtaining real-time data capture into the data base. This will reduce

the amount of time needed for credit card reconciliation in the Fiscal Division. Terminals will also be implemented at the front lobby for customers to pay with their credit cards vs. only on line as it is now.

4. IT Strategic Plan – will be updated at the October meeting.
5. Freshwater Council Reuse Zones (page 92) – Manager participated at a meeting on September 5<sup>th</sup>
6. Housing Summit (page 92) – Manager attended September 5<sup>th</sup> & spoke about housing affordability relating to Facilities Reserve Charge (FRC). The next required assessment of the FRC will be next year. Manager will be looking at the cost of Additional Dwelling Units (ADU), rental units and guest houses to minimize the cost to potentially a fraction of the full FRC. He will see if it will be less of an impact on the system compared to a typical impact for a 5/8 inch meter for residential units for affordable water meters. The assessment is required every five (5) years. This study will get going within the next few months.

Chair Canute asked if the FRC charge for ADU is a standard cost of \$14,000 and does it fall under the affordable housing requirements in place for lower FRC charges? The Manager mentioned the rules have specific provisions to qualify for the affordable housing rate. A project should be certified as affordable housing with the County Housing Agency or a developer driven project. The FRC is written in the rules for a 5/8 inch meter and we apply the rule based on an interpretation of “dwelling units” from the Planning Department. Chair Canute mentioned that the County created the densities for ADU’s and Affordable Rental Units (ARU) to increase available housing in the rental housing market.

Personnel Matters (page 90) - The Assistant Controller position was inadvertently left out of the Manager’s Update Report which should have been added. The Position Description was submitted to the Department of Human Resources and is under their Classification review. The position was approved by the Board and will be created.

Roadblocks to Affordability (page 92) - Ms. Ho asked if the Department is deemed affordable by the County Housing Agency? The Manager confirmed the rate is given to certified affordable housing units and feedback from the community and the County is that they would like ways to lower the FRC rates for ADU’s and ARU’s. However, from our perspective, Rule changes should be based on the impact to the system and not a subsidy. These considerations will be incorporated in the next 5-year FRC assessment scope. Ms. Ho inquired about new units or a house that is split in half and homes vs. long term. She is curious if builders would come in for this FRC modification. The Manager commented that the rules address different scenarios, and interpretations can become complex, but the Rules do not specifically address ADU’s or ARU’s.

Affordable Housing – Mr. Hull mentioned that according to the County of Kaua’i, vacation rentals are not considered dwelling units. He requested to determine in the scope of the study if a separate FRC should be assessed to dwelling units that are converted to vacation rentals which are going up. Mr. Hull also asked if there is any way to assess the impact fees on the vacation rentals? Manager Wienand requested a meeting with the Planning Department to further discuss this issue.

7. Special Counsel Contract No. 651 Update (page 92) – Manager Wienand provided an update on the Kia` Wai o Wai`ale`ale v. Department of Water. A summary judgement was ruled in the DOW’s favor.
8. Resiliency Assessment (page 93) – The Manager attended a September 5<sup>th</sup> workshop. The DOW has a Federal requirement through the 2018 American Water Infrastructure Act and is working on a customized assessment of all areas of the island to determine where we are vulnerable in a catastrophic event and how to prepare and harden our system to best respond during and after the event, including an updated Emergency Response Plan.

Mr. Hull suggested the Manager work with the Ben Sullivan in the Office of Economic Development and Marie Williams of Planning Department regarding the Resiliency plan, so that the bond rating is not affected (per S&P & Moody’s municipalities).

9. Task Force for Residential Sprinklers (page 93) – will be looking at a cost for residential sprinklers. The Manager said the key issues is updating the water system standards with an exception provision to allow for “flow-through” residential fire sprinklers to be installed without a backflow. The Big Island and O‘ahu also do not require a backflow for flow-through residential fire sprinkler units.

10. 5-Year Water Rate Study (page 93) – Final report will be updated for the Finance Committee in October.
11. Baseyard Master Plan Workshop (page 94) – Board input is encouraged at the workshop October 7<sup>th</sup>.
12. U.H. Experimental Station 0.25 MG Tank Project Update (page 94) – A finalized agreement was sent to U.H. August 26<sup>th</sup>. The Department plans to meet with the Dean this month.
13. Department of Health (DOH) Drinking Water State Revolving Fund Loans Program (page 94) – The Department met with DOH on the various financing loan options through the Revolving Fund. Recommendations will be available for the Finance Committee.

Received for the Record

At 10:56 a.m., Chair Canute read the Executive Session language:

**J. EXECUTIVE SESSION**

Pursuant to Hawai'i 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).

New Business H. 2 Manager's Report No. 20-15 - Discussion and Possible Action on the Appropriation of funds for Special Counsel to provide general civil litigation and related services

Refer to the vote in Open Session.

1. Pursuant to HRS § 92-4 and 92-5(a)(4), the purpose of this Executive Session is for the Board to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities as those relate to:

The Memorandum of Agreement (Drainage) between Godwin M. Esaki and Janet M. Esaki, individually and as trustees of the Godwin M. Esaki Revocable Living Trust, and the Janet M. Esaki Revocable Living Trust, TMK: (4) 4-6-11:125, Kapa'a, Kaua'i, Hawai'i) and the Board of Water Supply, dated August 21, 2017.

Mr. Hull moved to go into Executive Session; seconded by Ms. Ho; with no exceptions, motion carried with 4 ayes.

At 11:46 a.m., Chair Canute called the Regular meeting back to order; with no objections.

**K. TOPICS FOR NEXT BOARD OF WATER SUPPLY MEETING (October 2019)**

1. Adoption of Resolution, Mahalo Department of Water Participants 2019 Make a Splash Water Festival
2. Workshop presentation regarding the Master Plan of the Department of Water's former Administration Building, Baseyard, Micro Lab, Information Technology
3. Discussion and Possible Action to grant an easement for push pole purposes to the Kaua'i Island Utility Cooperative on a portion of the Department of Water's Kōloa 1.0 MG Tank site, TMK: (4) 2-7-003:008, Lot 426, Kōloa, Hawai'i
4. Manager's Report No. 19-60 - Discussion and Possible Action for Water Plan 2020 Project No. WK-39 Drill & Develop Kapa'a Homesteads Well No. 4 & Package A-Well and Drainage Package of Water Plan 2020 Project No. WK-08, Job No. 02-14, Kapa'a Homesteads 325' Tanks, Two 0.5 MG Tanks Projects, Kapa'a, Kaua'i, Hawai'i for additional construction funding in the amount of \$140,843.18 (*Update*)
5. Outcome of Memorandum of Understanding (Drainage) between Godwin M. Esaki and Janet M. Esaki, individually and as trustees of the Godwin M. Esaki Revocable Living Trust, and the Janet M. Esaki Revocable Living Trust, TMK: (4) 4-6-11:125, Kapa'a, Kaua'i, Hawai'i) and the Board of Water Supply, dated August 21, 2017 (Tentative)

**L. TOPICS FOR FUTURE BOARD OF WATER SUPPLY MEETINGS**

1. Department of Water Performance Audit (Update)
2. Table of Organization Workshop
3. Election of Officers for 2020 (November 2019)
4. Board Meeting Dates for 2020 (November 2019)
5. Discussion and Possible Action to establish Fiscal Policies and Procedures
6. Discussion and Possible Action on the Manager and Chief Engineer's Goals (March 2020)
7. Evaluation of the Department of Water's Manager and Chief Engineer from May 1, 2019 to May 1, 2020 (April 2020)

**M. UPCOMING EVENTS**

1. HWWA/HRWA Conference (October 9-11, 2019), Honolulu, Hawai'i
2. DOW's Annual Meeting (December 13, 2019)


**N. NEXT WATER BOARD MEETING**

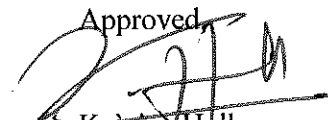
1. Friday, October 25, 2019, 10:00 a.m.
2. Friday, November 22, 2019, 10:00 a.m.
3. Friday, December 20, 2019, 10:00 a.m.
4. Friday, January 24, 2020, 10:00 a.m.

**O. ADJOURNMENT**

Mr. Hull moved to adjourn the Regular Board Meeting at 11:50 a.m.; seconded by Ms. Ho; with no objections, motion carried with 4 ayes.

Respectfully submitted,

  
Edith Ignacio Neumiller  
Commission Support Clerk

Approved  
  
Ka'aina Hull  
Secretary, Board of Water Supply

