

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, February 18, 2010

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, February 18, 2010. Chairperson Randall Nishimura called the meeting to order at 11:00 a.m. On roll call, the following answered present:

BOARD: Mr. Randall Nishimura, Chairperson
Mr. Ian Costa
Mr. Dee Crowell
Mr. Donald Fujimoto
Mr. Leland Kahawai
Mr. Roy Oyama

Absent & Excused: Mr. Raymond McCormick

STAFF: Mr. David Craddick
Mr. Paul Ganaden
Mr. Gregg Fujikawa
Mr. Keith Fujimoto
Mr. Bruce Inouye
Ms. Faith Shiramizu
DOW Deputy County Attorney Andrea Suzuki
Board's Deputy County Attorney Amy Esaki

Absent & Excused: Mr. William Eddy

AGENDA:

Mr. Costa moved to approve the Agenda, seconded by Mr. Crowell; by a unanimous vote, motion was carried.

MINUTES:

Regular Meeting Minutes – December 17, 2009:

Mr. Costa moved to approve the Regular Meeting Minutes of December 17, 2009, seconded by Mr. Oyama; by a unanimous vote, motion was carried.

Public Hearing Minutes – January 28, 2010:

Mr. Costa moved to approve the Public Hearing Minutes of January 28, 2010, seconded by Mr. Oyama; by a unanimous vote, motion was carried.

Regular Meeting Minutes – January 28, 2010:

Mr. Costa moved to approve the Regular Meeting Minutes of January 28, 2010, seconded by Mr. Oyama; by a unanimous vote, motion was carried.

CORRESPONDENCE/ANNOUNCEMENTS: None

BOARD COMMITTEE REPORTS:

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

Finance Chair Oyama reported that at the February 18, 2010 Finance Committee Meeting, the Committee approved the Claims Payables for a total of \$2,771,975.70.

Mr. Costa moved to receive the Finance Committee Report and place on file, seconded by Mr. Kahawai; by a unanimous vote, motion was carried.

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

Rules Chair Costa reported that at the February 18, 2010 Rules Committee Meeting, DOW Deputy County Attorney Andrea Suzuki provided a working draft for the Board on Board procedures. She is presently working on the initial working draft of the procedures that will address incorporating them into the Board's Rules of Procedure and Reconsideration.

Mr. Crowell moved to approve the Rules Committee Report, seconded by Mr. Costa.

On query by Chair Nishimura, Rules Committee Chair Costa stated that the Rules Committee suggested that the Board should consider Regular Meeting's New Business Agenda Item No. H10, *Manager's Report No. 10-63, Request Board Action on Amended Language on Board Delegation of Signing Authority for Vouchers* to be included in the upcoming rule amendment process.

By a unanimous vote; motion was carried.

OLD BUSINESS:

Re: Informational Report on the Status of the Bond Float

Manager Craddick reported that the County Bond was up for a second reading vote on February 17, 2010 and at that time the County got its bond rating, which was a good rating.

The final step before going to market is completing the official Statement and getting documents signed so the Bond attorney can give their opinion.

He expects that the Bond sale would occur about the second to last or last week of March, 2010.

During the Council Finance Committee Meeting some question came up about the Treatment Plant buyout. The Committee Chair decided a future meeting on an update 2020 Plan was in order so we will be preparing for this meeting.

Mr. Costa moved to receive this report, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Concurrence and Approval of the 2010 Goals for Water Manager David Craddick

As part of the Job Performance Evaluation process for Manager David R. Craddick, this matter is on this Committee Meeting Agenda as an agenda item as part of the Committee of the Whole as per my request to continue discussion on the Board's goals for the Manager for 2010. Once our goals are finalized at the February meeting, it will be communicated to Manager Craddick to ensure clarity by all of us.

As requested at the January 28, 2010 Board Meeting, all Board members were to review the list of potential goals for our manager to prioritize and ensure that the recommended goals are measurable. Again, the following are some criteria Chair Nishimura wanted to use as the basis for including an item as a goal:

- A. It must be measurable in the form of a report, recommendation, actual physical accomplishment or confirmation by a third party.
- B. The goal must be able to be accomplished or substantially completed within the 12 month period starting January 1, 2010 and ending December 31, 2010. If the goal is expected to take more than one year, it is recommended that it be broken into achievable phases with specific benchmarks for the current year.
- C. He recommended consolidating some items as they appear to overlap.
- D. There should be a deadline for accomplishing the goals in order that the manager be able to focus on them in a timely fashion.
- E. There should be priorities established so that the manager is clear about which goals deserve the most attention.

It was recommended again that the Board review the goal list and concur on the prioritized measurable goals to reflect the direction for our Manager to proceed. It was further recommended that the Board provide the manager the first 6 goals by the February meeting so that he can begin focusing on the most important priorities.

Mr. Costa moved to defer this matter to the next Board Meeting, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

NEW BUSINESS

Re: Request Board Approval of Board's Delegation from the Board Chair to the Finance Committee Chair of the Signing the Vouchers as part of the Claims Payable

Chair Nishimura stated that he recommended that the Board approve the delegation of the signing of the vouchers as part of the Claims Payable from the Board Chair to the Finance Committee Chair. This action would alleviate any type of conflict of interest with the signing of the vouchers by the Chair or Vice Chair.

Deputy County Attorney Amy Esaki stated that the DOW is still bound by HRS 54-25 which is currently going through the Legislature. The language covers that if the Chair has a conflict then it goes to the Vice Chair and vice versa and then if both Chair and Vice Chair have conflicts, then it goes to the Board Secretary. She added

that if the proposed legislative bill is passed then the Board can delegate this duty to the DOW Manager.

Mr. Oyama moved to receive this report, seconded by Mr. Crowell; by a unanimous vote; motion was carried.

Re: Request Board Approval of a Conveyance of Water Facility from Michael Walter Folster and Sharon S. Nitta-Folster for the 2nd and 3rd 5/8-Inch Domestic Service Connection and Backflow Preventer, TMK: (4) 1-3-009:019, Kekaha, Waimea District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Michael Walter Folster and Sharon S. Nitta-Folster, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 1 ½-inch copper double service lateral for 5/8" water meter, in place complete, for the 2nd and 3rd 5/8-Inch Domestic Service Connection and Backflow Preventer, TMK: (4) 1-3-009:019, Kekaha, Waimea District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Crowell moved to approve this Conveyance of Water Facility from Michael Folster and Sharon Nitta-Folster, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of a Conveyance of Water Facility from KD Kapule LLC, a Hawaii limited liability company for the Kauai Lagoons Affordable Housing Project, Kapule Highway Fire Hydrant; TMK: (4) 3-5-001:165, Lihue District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, KD Kapule LLC, a Hawaii limited liability company, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, fire hydrant assembly w/ 1-4½" & 1-2½" outlet, in place complete and one (1) each, 6" gate valve, including C.I. valve box & cover, in place complete, for the Kauai Lagoons Affordable Housing Project, Kapule Highway Fire Hydrant; TMK: (4) 3-5-001:165, Lihue District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Crowell moved to approve this Conveyance of Water Facility from KD Kapule LLC, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of a Conveyance of Water Facility from KD Kapule LLC, a Hawaii limited liability company for the Haa Street Road Improvements for the Affordable Housing Project at Kauai Lagoons; TMK: (4) 3-5-001:165, Lihue District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, KD Kapule LLC, a Hawaii limited liability company, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each,

fire hydrant assembly w/ 1-4½” & 1-2½” outlet, in place complete and one (1) each, 6” gate valve, including C.I. valve box & cover, in place complete, for the Haoa Street Road Improvements for the Affordable Housing Project at Kauai Lagoons; TMK: (4) 3-5-001:165, Lihue District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Crowell moved to approve this Conveyance of Water Facility from KD Kapule LLC, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of a Conveyance of Water Facility from Laverne S. Bishop for the 2nd 5/8” Domestic Service Connection for TMK: (4) 2-4-001:056 (Lot 56B-1), Kalaheo, Koloa District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Laverne S. Bishop, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 1-inch copper single service lateral for 5/8” water meter, in place complete, for the 2nd 5/8” Domestic Service Connection for TMK: (4) 2-4-001:056 (Lot 56B-1), Kalaheo, Koloa District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Crowell moved to approve this Conveyance of Water Facility from Laverne S. Bishop, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of a Conveyance of Water Facility from Saburo and Edith M. Yoshioka, husband and wife for the Futari Gardens Additional Water Meter, Kuhio Highway; TMK: (4) 5-8-009:033, Haena District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Saburo and Edith M. Yoshioka, husband and wife, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 1” copper service connection for 5/8” water meter, in place complete, for the Futari Gardens Additional Water Meter, Kuhio Highway; TMK: (4) 5-8-009:033, Haena District, Kauai, Hawaii Kauai.

Grant of Easement not required.

Mr. Crowell moved to approve this Conveyance of Water Facility from Saburo and Edith M. Yoshioka, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of Job No. 02-02, LO-04, Piwai 0.5 Million Gallon Storage Tank, Omao, Award of Contract to Unlimited Builders, LLC (Manager’s Report No. 10-56)

RECOMMENDATION: It was recommended that the Board award a contract to Unlimited Builders, LLC. for the subject project in the amount of \$2,100,071.00 for the

construction of this project and approve a contingency of \$104,929.00 (approximately 5% of the contract amount) for a total of \$2,205,000.00. It was further requested that the Board allocate \$205,000.00 from Account 301.b CIP Reserve to fund the balance required.

FUNDING:

301. FRC, Job No. 02-02, LO-04, Piwai 0.5	
Million Gallon Storage Tank, Omao.	\$2,000,000.00
Proposal by UNLIMITED BUILDERS, LLC.....	\$2,100,071.00
Contingency (approx. 5%)	<u>\$ 104,929.00</u>
Total funds required:	<u><\$2,205,000.00></u>
Balance Required: 301b. CIP Reserve:	<u><\$ 205,000.00></u>

BACKGROUND:

The major components of this project are:

- One half million gallon reinforced concrete water storage tank, including site grading.
- Approximately 300 feet of 16-inch waterline.
- Electrical controls.
- Paving and fencing.

Bids were received and opened for the subject project on January 21, 2010 with the following results:

Unlimited Builders, LLC.....	\$2,100,071.00
Jennings Pacific, LLC.....	Disqualified (required SRF forms were not complete)
Kauai Builders, Ltd.....	Disqualified (required SRF forms were not complete)
Resort Construction Managers, Inc....	Disqualified (required SRF forms were not complete)

The engineer's estimate for this work was \$3,180,095.00.

We reviewed Unlimited Builders' proposal of \$2,100,071.00 for the project and found it acceptable.

Mr. Crowell moved to approve: 1) the award of a contract to Unlimited Builders, LLC for the subject project; 2) a contingency of \$104,929.00 (approximately 5% of the contract amount) for a total of \$2,205,000.00; and 3) the reallocation of \$205,000.00 from Account 301.b CIP Reserve to fund the balance; seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of Funds to Subsidize the Upsizing of the Kaumuali'i Highway's 16-Inch Waterline to a 24-Inch Waterline and a Change Order with the State Department of Transportation, Highways Division (Manager's Report No. 10-57)

RECOMMENDATION: It was recommended that the Board approve \$2.2 million to fund upsizing of the Kaumuali'i Highway's 16" waterline between Lihue Sugar Mill Bridge and KCC pipeline is requested.

FUNDING: Our Waterworks Controller is suggesting using funds budgeted for land acquisition to encumber for the pipeline. Once the bond is issued the project list would be adjusted to allow for bond funds to be used versus cash.

BACKGROUND: The State has a contract to widen Kaumuali'i Highway from the Lihue Sugar Mill Bridge to just past Grove Farms Office in Puhi for roughly 6,000 feet. The present job calls for relocating the existing 16" WL which is at its service limit, as far as volume goes. It is a relatively new line and does not need replacement but State Highways wants it relocated and will relocate it at its expense. However, since the line is at its service limit, it does not make sense to put in a new inadequate line.

We have asked for the cost to upsize the line to a standard 24" line. We have received a tentative price of \$2 million. We are still in negotiation about the final change order price but the contractor Kiewit Pacific is faced with an increase in pipe cost after February 22, 2010 and we want to lock in the material cost by giving the State the go ahead.

Mr. Crowell moved to approve the Manager's recommendation, seconded by Mr. Oyama.

Manager Craddick stated that it was initially discussed to buy our own pipeline from the Maui Department of Water Supply; however, the time it would take to ship and disinfect the pipeline, it was felt that it would be more cost effective and practical to have the contractor buy the waterline. He had recent conversations with the contractor and he stated that the cost of the upsizing and the waterline would cost about \$2.4 million; however, Manager Craddick wanted to add a contingency of \$100,000. Therefore, the total cost of this project would be \$2.5 million.

Manager Craddick further discussed that the cost of the pipeline will be going up shortly; therefore, the contractor wanted to order the pipeline as soon as possible. He added that the pipeline would not be received for several months and the contractor is not asking for monies now and is not asking the Department to sign any type of MOUs upfront with the State. Manager Craddick has also been working with the DOT Highways Engineer Ray McCormick on this matter.

Manager Craddick felt that this was a great opportunity for the Department to upsize our waterline to plan for future water use as the existing 16-inch waterline is at its maximum use.

Mr. Costa moved to amend the motion to approve the revised amount of \$2.5 million for this project, seconded by Mr. Oyama.

On query by Mr. Kahawai, Waterworks Controller Ganaden stated that the Department has two (2) options to fund this project. We have \$2.4 million budgeted for land acquisition, which it is not anticipated to be used this year from Account No. 101, CIP Fund. Also, for the Piwai Tank, we have \$1.5 million unrequired as the bids were lower than expected that comes from Account No. 101, CIP Fund.

Manager Craddick added that once the bond is issued, this project could be added to the bond project list and funded by the bond funds. Once funded by the bond, the funds would go back to its original budget source.

Waterworks Controller Ganaden discussed that the MOA with the State would be signed after June, 2010 when our budget is completed; therefore, Manager Craddick is asking the Board to approve the concept entering into the MOA and the funding of the project would depend on the timing on whether we would use monies from Account No. 101, CIP or bond funds.

On query by Mr. Crowell, Waterworks Controller Ganaden stated that the land acquisition funds would roll over to next budget year if unused.

By a unanimous vote; both motions were carried.

Re: Request Board Approval of Job No. K-01, Yamada Tank Site Acquisition, Kalaheo, Consultant Selection for Preparation and Processing an Environmental Assessment for the Purchase of the Yamada Tank Site, Puuwai Road, Kalaheo, Kauai, Tax Map Key: (4)2-4-003:007 (Manager's Report No. 10-58)

RECOMMENDATION: It was recommended that the Board award a contract to BELT COLLINS HAWAII, LTD. for the subject project in the amount of \$23,400.00 for the preparation and processing an environmental assessment to purchase the Yamada Tank site. It was further requested that the Board allocate \$23,400.00 from Account 101, CIP Land Acquisition to fund the contract.

FUNDING:

Proposal by BELT COLLINS HAWAII, LTD.. \$23,400.00
Total funds required Account 101 CIP, Land Acquisition:<\$23,400.00>

BACKGROUND:

This project includes the purchasing of the Yamada Tank site, which the Board approved at its September 17, 2009 meeting. The Department needs to prepare and process an environmental assessment (EA) as public funds will be used to purchase the site, in accordance with the Hawaii Revised Statues.

We reviewed BELT COLLINS HAWAII's proposal of \$23,400.00 for the EA preparation and find it acceptable.

Mr. Crowell moved to award a contract to Belt Collins Hawaii, Ltd. for the subject project in the amount of \$23,400.00 for the preparation and processing an environmental assessment to purchase the Yamada Tank site and to approve the

allocation of \$23,400.00 from Account 101, CIP Land Acquisition to fund the contract, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Job No. 02-08, HE-08, Eleele Steel Tank Renovations with Hawaii Pacific Engineers, Inc., Eleele, Kauai, First Contract Amendment

RECOMMENDATION: It was recommended that the Board approve the first contract amendment for Contract No. 420 with Hawaii Pacific Engineers, Inc. in the amount of \$188,540.90 for:

1. Updating and completing the work that was placed on hold in February 2005 (\$88,720.00, less \$48,721.90 credit for remaining work on the contract or \$39,998.10).
2. Provide cathodic protection for the steel tanks (\$51,099.00).

It was further requested that the Board allocate \$80,002.10 from Account 106b, CIP Reserve to fund the balance needed for the contract amendment.

FUNDING:

Total Fund Budgeted\$227,000.00

Contract No. 420, Hawaii Pacific Engineers,
Job No. 02-08, HE-08, Eleele Steel Tank
Renovations \$215,905.00

Balance Remaining..... \$ 11,095.00
Amendment #1.....<\$ 91,097.10>
Total Required, Account No. 101b, CRP Reserve.....< \$ 80,002.10>

Total Project Budget \$307,002.10

BACKGROUND:

The projects include the design for renovating the two 0.4 million gallon Eleele steel tanks (formally owned by A&B Properties).

The Department placed this project on hold in February 2005 as its work efforts, including construction funding, shifted to other priorities. We now, need to complete and finalize the design of the project and requested the project consultant, Hawaii Pacific Engineers, Inc. for his proposal to update and finalize the work. Their proposal of \$88,720.00, less a credit of \$48,721.90 for work that was yet to be done or a net proposal of \$39,998.10 appears reasonable for the remaining work to be done.

Additionally, the Department overlooked the inclusion of a cathodic protection system in the initial scope of work, which should extend the life of the steel tanks to 30 years instead of an estimated 15 years without the protection. Hawaii Pacific Engineers, Inc. submitted a proposal of \$51,099.00 for this portion of the work, which appeared reasonable.

Further, it was estimated that the consultant will need approximately 270 calendar days from the notice to proceed for the contract amendment to complete the project,

subject to timely reviews by the Department of Water and the other governmental agencies.

Mr. Oyama moved to approve the first contract amendment for Contract No. 420 with Hawaii Pacific Engineers, Inc. in the amount of \$188,540.90 and approved the allocation of \$80,002.10 from Account 106b, CIP Reserve to fund the balance, seconded by Mr. Costa; by a unanimous vote; motion was carried.

Re: Request Board Approval of Memorandum of Agreement for the Kaumuali'i Highway 12-Inch Main Replacement (Elepaio Road to Huakai Road), Job No. 05-04, Water Plan 2020 Project No. KW-27 (Manager's Report No. 10-60)

1. Between Board of Water Supply, County of Kauai, and State of Hawaii, Department of Transportation, affecting portions of Kaumuali'i Highway, Kekaha -Waimea, Kauai, Hawaii

RECOMMENDATION:

It was recommended that the Board approve the Memorandum of Agreement document; whereby, the Board of Water Supply, County of Kauai, agrees to abandon existing waterline facilities within certain State of Hawaii highway located as specified above in the Kekaha - Waimea District, Kauai, Hawaii.

Further, Board approval is specifically requested of the indemnification provision in this agreement, wherein the Board agrees to indemnify and hold harmless the Grantee from property damage and injuries to person (including death), when such damages and injuries are caused by the Department's negligence while using the area.

FUNDING: Not applicable.

BACKGROUND:

Construction plans call for the removal of all abandoned water facilities as required during the Kaumuali'i Highway 12-Inch Main Replacement (Elepaio Road to Huakai Road) installation. The Department of Transportation, State of Hawaii, has asked the Department of Water to enter into the Memorandum of Agreement in order to leave existing water facilities grouted and abandoned in place.

Allowing the Department of Water to abandon all waterlines in place will reduce the overall cost of construction, reduce the capacity needed for disposal of the pipeline at the Kekaha Landfill, as well as, avoid potential health concerns that may arise during the removal of existing asbestos cement (AC) pipe.

The Board of Water shall hold harmless, indemnify and defend the State, its officers and employees from and against all claims, demands, liabilities, suits, actions, judgments, costs and expenses (including attorney fees) for loss, injury, death or damage, including, without limitation, claims for property damage, personal injury, or death of persons, to the extent that such damage, injury, loss or death is caused by an act or omission of the Board of Water connected with or related to the Old Facilities or the Board of Water's use and occupancy of the Premises.

The Board of Water agrees to indemnify, defend, and hold harmless the State, its officers, agents and employees from any claims, demands, law suits, actions, judgments, liabilities, losses, damages, costs and expenses arising out of, connected with or related to (1) the presence, escape, disposal, discharge or release of hazardous materials on, within, under or from the Premises occurring while the Board of Water is in possession if and to the extent caused by the Board of Water or the Board of Water's contractors, (2) The Board of Water's performance of the Board of Water's obligations under subparagraph 14.e., or (3) The Board of Water's failure to comply with any environmental laws, including failure to obtain required permits. These covenants shall survive the expiration or earlier termination of this Agreement.

The abandonment of all existing facilities that are located within and under the State of Hawaii Right of Way would cease when the State Department of Transportation reconstructs the portion of State Road that contains the old facilities.

The construction contract has been awarded and anticipated completion is April 2010.

Mr. Costa moved to approve the MOA with the State Department of Transportation for Job 05-04.

On query by Mr. Kahawai, Mr. K. Fujimoto stated that the State DOT actually preferred that the Department remove the abandoned pipelines; however, since it is cost prohibitive, it was agreed that the Department could fill the waterlines and leave it abandoned in place, with the understanding that if there is any problems with the filled waterlines that the DOW would be responsible for the costs to remove the lines. To consummate these actions, the State DOT and now the Department of Public Works are both requiring the DOW to submit MOAs.

On query by Mr. Crowell, Manager Craddick stated that the Honolulu Board of Water Supply previously attempted to sell or lease their abandoned waterlines but it did not work out.

On query by Chair Nishimura, Manager Craddick stated that it is possible that one day that DOT would require the DOW to remove these waterlines. Chair Nishimura discussed that it would be prudent to then have a reserve in our budget to address the potential waterline removals. Manager Craddick added that we are self-insured with a \$.5 million deductible; therefore, we do presently have a reserve of about \$.3 million, which we could increase to either \$.5 million or \$.8 million in our future budgets.

Mr. D. Fujimoto also discussed that he felt that it was not the best use of our monies to have it all tied up in a reserve but instead since it would eventually need to be done, that it should be budgeted like a future CIP project.

Manager Craddick suggested that since our insurance deductible is \$.5 million that the DOW set aside \$.5 million in an insurance reserve fund to address this matter or any type of disasters.

On query by Mr. Kahawai, Mr. K. Fujimoto estimated that the cost of a waterline removal would be about 25% of the cost of the entire project. Mr. K. Fujimoto added that the Department has in its present budget the funds to remove these 3 projects' existing waterlines, as at that time doing a MOA was not an option; therefore, about \$.5 million was budgeted for its removal. Mr. K. Fujimoto also added that abandoning the waterlines in place is not free as it also has a price.

Mr. Costa withdrew his motion. Mr. Costa moved to approve the MOA with the State Department of Transportation for Job 05-04, including its indemnification, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of Memorandum of Agreement for the 12" Waterline along Kaumuali'i Highway and Waimea Canyon Drive, Job No. 02-03, Water Plan 2020 Project No. KW-14 (Manager's Report No. 10-61)

1. Between Board of Water Supply, County of Kauai, and State of Hawaii, Department of Transportation, affecting portions of Kaumuali'i Highway and Waimea Canyon Drive, Waimea, Kauai, Hawaii

RECOMMENDATION:

It was recommended that the Board approve the Memorandum of Agreement document; whereby, the Board of Water Supply, County of Kauai, agrees to abandon existing waterline facilities within certain State of Hawaii roadways located as specified above in the Waimea District, Kauai, Hawaii.

Further, Board approval is specifically requested of the indemnification provision in this agreement, wherein the Board agrees to indemnify and hold harmless the Grantee from property damage and injuries to person (including death), when such damages and injuries are caused by the Department's negligence while using the area.

FUNDING: Not applicable.

BACKGROUND:

Construction plans call for the removal of all abandoned water facilities as required during the 12" Waterline along Kaumuali'i Highway and Waimea Canyon Drive installation. The Department of Transportation, State of Hawaii, has asked the Department of Water to enter into the Memorandum of Agreement in order to leave existing water facilities grouted and abandoned in place.

Allowing the Department of Water to abandon all waterlines in place will reduce the overall cost of construction, reduce the capacity needed for disposal of the pipeline at the Kekaha Landfill, as well as, avoid potential health concerns that may arise during the removal of existing asbestos cement (AC) pipe.

The Board of Water shall hold harmless, indemnify and defend the State, its officers and employees from and against all claims, demands, liabilities, suits, actions, judgments, costs and expenses (including attorney fees) for loss, injury, death or damage, including, without limitation, claims for property damage, personal injury, or death of persons, to the extent that such damage, injury, loss or death is caused by

an act or omission of the Board of Water connected with or related to the Old Facilities or the Board of Water's use and occupancy of the Premises.

The Board of Water agrees to indemnify, defend, and hold harmless the State, its officers, agents and employees from any claims, demands, law suits, actions, judgments, liabilities, losses, damages, costs and expenses arising out of, connected with or related to (1) the presence, escape, disposal, discharge or release of hazardous materials on, within, under or from the Premises occurring while the Board of Water is in possession if and to the extent caused by the Board of Water or the Board of Water's contractors, (2) The Board of Water's performance of the Board of Water's obligations under subparagraph 14.e., or (3) The Board of Water's failure to comply with any environmental laws, including failure to obtain required permits. These covenants shall survive the expiration or earlier termination of this Agreement.

The abandonment of all existing facilities that are located within and under the State of Hawaii Right of Way would cease when the State Department of Transportation reconstructs the portion of State Road that contains the old facilities.

The construction contract has been awarded and anticipated completion is January 2011.

Mr. Costa moved to approve the MOA with the State Department of Transportation for Job 02-03, including its indemnification, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Approval of Memorandum of Agreement for the Waimea Main Replacement, Job No. 05-01, Water Plan 2020 Project No. KW-16 (Manager's Report No. 10-62)

1. Between Board of Water Supply, County of Kauai, and State of Hawaii, Department of Transportation, affecting portions of Kaunali'i Highway, Waimea, Kauai, Hawaii

RECOMMENDATION:

It was recommended that the Board approve the Memorandum of Agreement document; whereby, the Board of Water Supply, County of Kauai, agrees to abandon existing waterline facilities within certain State of Hawaii highway located as specified above in the Waimea District, Kauai, Hawaii.

Further, Board approval is specifically requested of the indemnification provision in this agreement, wherein the Board agrees to indemnify and hold harmless the Grantee from property damage and injuries to person (including death), when such damages and injuries are caused by the Department's negligence while using the area.

FUNDING: Not applicable.

BACKGROUND:

Construction plans call for the removal of all abandoned water facilities as required during the Waimea Main Replacement installation. The Department of

Transportation, State of Hawaii, has asked the Department of Water to enter into the Memorandum of Agreement in order to leave existing water facilities grouted and abandoned in place.

Allowing the Department of Water to abandon all waterlines in place will reduce the overall cost of construction, reduce the capacity needed for disposal of the pipeline at the Kekaha Landfill, as well as, avoid potential health concerns that may arise during the removal of existing asbestos cement (AC) pipe.

The Board of Water shall hold harmless, indemnify and defend the State, its officers and employees from and against all claims, demands, liabilities, suits, actions, judgments, costs and expenses (including attorney fees) for loss, injury, death or damage, including, without limitation, claims for property damage, personal injury, or death of persons, to the extent that such damage, injury, loss or death is caused by an act or omission of the Board of Water connected with or related to the Old Facilities or the Board of Water's use and occupancy of the Premises.

The Board of Water agrees to indemnify, defend, and hold harmless the State, its officers, agents and employees from any claims, demands, law suits, actions, judgments, liabilities, losses, damages, costs and expenses arising out of, connected with or related to (1) the presence, escape, disposal, discharge or release of hazardous materials on, within, under or from the Premises occurring while the Board of Water is in possession if and to the extent caused by the Board of Water or the Board of Water's contractors, (2) The Board of Water's performance of the Board of Water's obligations under subparagraph 14.e., or (3) The Board of Water's failure to comply with any environmental laws, including failure to obtain required permits. These covenants shall survive the expiration or earlier termination of this Agreement.

The abandonment of all existing facilities that are located within and under the State of Hawaii Right of Way would cease when the State Department of Transportation reconstructs the portion of State Road that contains the old facilities.

The construction contract has been awarded and anticipated completion is August 2010.

Mr. Costa moved to approve the MOA with the State Department of Transportation for Job 05-01, including its indemnification, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Request Board Action on Amended Language on Board Delegation of Signing Authority for Vouchers *(Manager's Report No.10-63)*

Manager Craddick requested the Board's vote on the amended language regarding the disbursement of funds to the Manager.

He did not recommend approval of the amendment. The amended language says this must be done through **rules and policies**. This could have the effect of making the delegation irrevocable, or at least needing to go through the rule making process to remove delegation, if needed, which is now much more cumbersome and time consuming due to the small business requirements for rule making. This should

simply follow the language in HRS 54-14 regarding staff that says “The manager and chief engineer shall have the powers and duties prescribed by the Board.” The other option is to change the ‘and’ to ‘or’ between rules and policy in the amended language.

If the Board votes to approve, Manager Craddick will not request any changes; if the Board votes to disapprove the proposed changes, Manager Craddick will try to get the amendment reversed back to the initial language.

Mr. Costa moved to receive the Manager’s Report No.10-63 and refer to the Rules Committee for consideration, seconded by Mr. Crowell; by a unanimous vote; motion was carried.

REPORTS

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

Waterworks Controller Ganaden reported that we are now about one-half way through the fiscal year and it looks like we are on target for projections so far. Water Sales projections are at about 50%, which looks good; however, consumption is still 7% lower than the year 2008. For SRF Funds, we have let out about \$22.9 million in SRF contract related projects. We are anticipating receiving about \$15.5 million by the end of the year. So far, we have advanced \$6.8 million so it would help our cash flow, since our cash flow started at \$9 million and now is down to \$7 million. Hopefully, we can get all of our final SRF loan agreements soon so we can ask for reimbursements. In February, 2010, we have received \$4 million in SRF funds that will also help our situation.

He also reported that on major expenditures, purchase of water and electrical costs are about 11% lower than budget.

Mr. D. Fujimoto brought up that with if our campaign on sustainability and asking our customers to conserve is successful that we would need to tweak our rates to address less consumption.

Mr. Costa moved to receive the Statement of Kaua’i County Water Department’s Revenues and Expenditures report and placed it on file, seconded by Mr. Kahawai; by a unanimous vote, motion was carried.

Re: Public Relations Specialist’s Monthly Update Regarding DOW Public Relation Activities

Public Relations Specialist Faith Shiramizu gave the following report:

Re: Public Relations Update

Conservation and Leak Detection Workshop: David and I attended the Leak Detection and Water Conservation Collaborative Workshop coordinated by staff from the Honolulu Board of Water Supply (HBWS) Water Resource and Planning

Division. Participants included representatives from all four counties and the state Commission on Water Resource and Management (CWRM). O'ahu and Big Island shared information about the type of leak detection equipment they are using as well as the pros and cons of them. Maui shared the success of their Retrofit Program, while CWRM reported on their Ala Wai Project which included Waterless Urinals, Caroma Dual Flush Toilets & Kalanimoku Building Retrofits.

A National Geographic Magazine representative showed the group magazines that were done for California, proposing that Hawai'i consider doing the same. It would be very costly, but it encouraged the group to continue discussions on a collaborative water conservation advertising effort.

State Revolving Fund: Projects are being reviewed to decide on which projects should be added to the SRF Priority List.

Customer Complaint: The DOW was included in a letter of complaint to Mayor Carvalho regarding the length of time it takes in the permitting process. A timeline was compiled with backup documentation and sent with a letter of apology to the complainant. Based on the timeline, it did not appear that there were any delays due to the DOW.

On query by Chair Nishimura, Ms. Shiramizu stated that she was not sure where the holdup but upon review, it did not seem to be the DOW. Manager Craddick stated that the Department did write the customer a letter asking for his suggestions on where the DOW can improve. He added that he found out that the customer was also at fault as he was not following up on his end too.

Office of Community Services: The DOW provided low flow showerheads, and kitchen and bathroom aerators to Keith Nakano from the Office of Community Services. He is heading a statewide Weatherization Assistance Program. Free home audits are being offered for low income families and based on the audit the families will be assisted to retrofit their homes with energy and water saving devices. On Kaua'i, this program is being implemented through staff from KEO.

Department of Health (DOH) Safe Drinking Water Branch (SDWB): Had two follow up meetings with Dan Chang from the DOH, first with David and Bill to discuss a Source Water Protection Plan. The second meeting with Dan, Erin and Jim pertained to how they can assist the department with training on various topics and public education.

Project WET: Working with Kanani Aton Keliikoa from the Hawai'i Department of Water Supply to provide a Project WET Teacher Workshop in Hilo on March 5, 2010. Alaska Project WET State Coordinator, Joni Scharfenberg and I will be conducting the training.

On query by Mr. Costa, Ms. Shiramizu stated that she felt that the reduction in consumption would probably be mostly due to the low visitor occupancy in our hotels and not conservation. Mr. D. Fujimoto just wanted to make a point that one day it may be because of water conservation so we would need to address that.

Mr. Costa moved to receive the Public Relations Update and placed it on file, seconded by Mr. D. Fujimoto; by a unanimous vote, motion was carried.

Re: Deputy Manager's Summary Report on Monthly Operational Maintenance

Mr. Costa moved to receive the Deputy Manager's Summary Report and placed it on file, seconded by Mr. Kahawai; by a unanimous vote, motion was carried.

Re: Manager's Update for January, 2010 to February, 2010

CONTRACTS AWARDED BY THE MANAGER: None.

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

WAIVER, RELEASE AND INDEMNITY AGREEMENTS SIGNED BY THE MANAGER: None.

PERSONNEL MATTERS UPDATE:

1. Chris Nakamura promoted to Water Service Supervisor III
2. Rena Horikawa promoted to Clerk Dispatcher II
3. Accountant IV – Accounting Section Head job application under review. Sending selection to DPS to do final audit.
4. Manner of filling Commission Support Clerk is currently in discussion.
5. Computer Systems Support Technician I – Interview to be scheduled.
6. Civil Engineer V (Special Projects & Engineering Division) – Request for eligibles list.
7. Waterworks Inspector II (Engineering Division) – Interview to be scheduled.
8. Project Assistant (Special Projects Division) – Recruitment being handled by DPS.

Affordable Housing Update:

The last Affordable Housing Task Force (AHTF) meeting was held on Monday, February 8, 2010 at Pi'ikoi Conference Room A, with the status of projects below.

Updates on AHTF Projects:

1. Habitat - Eleele I Luna Subdivision Phase 2 (107 lots, 1 park): Site construction for the sewer main is underway. Consultant preparing to submit draft construction plans to the County agencies for review and approval. The subdivision improvements will include improvements for all three sub-increments. Increment Phase IIA will be started first.
2. Kauai Lagoons – Kapule Project: Two DOW fire hydrant installations and other site work along Kapule Highway and Haoa Street were granted final inspection. Other requirements that include conveyance of the improvements to the Board will be required prior to the issuance of the certificate of completion by the DOW.
3. Kukui'ula Employee Housing- "Gap" Housing subdivision and zoning permit: A standalone water master plans for the Employee project was re-submitted in February, 2009 to DOW. DOW previously responded with comments to the WMP that was submitted to Kukuiula Development Company. There has been

no response from the developer to date. Per Housing Agency, Kukuiula Development is requesting an amendment to the original zoning amendment ordinance through the Planning Commission and the County Council.

4. Kohea Loa (Hanamaulu Triangle). Grove Farm revised Water Master Plan (dated June 10, 2009) was approved by DOW on July 14, 2009. On site construction plan review is underway. The developer met with the DOW manager to clarify DOW conditions for their development. Water system improvements as set forth by the WMP include offsite source, storage and transmission facilities. DR Horton will contact GF to coordinate the water improvements.
5. Paanau Village, Phase 2: John Frazer, Kaua'i Housing Development Corp (KDCH) submitted the application to the State for low income financing. If successful the project will be able to move on.
6. 'Ele'ele – 75 acre parcel acquisition: Housing Agency will seek County Council approval for land acquisition at February 17, 2010 meeting. If successful, Housing Agency will authorize RM Towill, our consultant, to prepare a feasibility study for the proposed parcel in March 2010.

State Land Parcels (County Affordable Housing):

1. Water reported that the Board of Water Supply will be requesting a status update be presented by the Housing Agency at a upcoming Board Meeting

Next meeting will be held on Monday, March 8, 2010 at the Pi'ikoi Conference Room A, 10-11am.

Legislative Update:

The bills for the delegation of Board authority regarding payment voucher signing has been approved in the Senate and House. Someone asked for an amendment to make this a Board rule. The funding request for Kilauea has not moved.

Mr. D. Fujimoto moved to receive the Manager's Update and place it on file, seconded by Mr. Oyama; by a unanimous vote, motion was carried.

Mr. Oyama was excused from the meeting at about 12:07 p.m.

EXECUTIVE SESSION:

Pursuant to H.R.S. §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a).

REVIEW OF EXECUTIVE SESSION MINUTES: December 17, 2009 (Minutes deferred.)

Mr. Oyama moved to defer Executive Session Item No. ES-2007, seconded by Mr. Costa; by a unanimous vote, motion was carried.

1. ES-2007 (12-13-07 & 2-14-08) - Pursuant to Haw. Rev. Stat. Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with Legal Counsel regarding questions and issues pertaining to the Board's and Department of Water's liabilities, powers and duties regarding personnel, labor and employment issues. This consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item and/or liabilities, claims and/or potential claims, as they relate to the foregoing and to take such action as the Board deems appropriate.

There was no Executive Session at this Board Meeting.

TOPICS FOR NEXT WATER BOARD MEETING:

1. Correspondence: Letter from Daniel & Karen Yamaguchi on their High Water Bill
2. Board Discussion and Possible Action on the Possible County Furlough Plan and its interaction with the Labor Unions of UPW and HGEA
3. Board Discussion on Financing of DOW's Required Infrastructure for Customers

TOPICS FOR FUTURE WATER BOARD MEETINGS

1. Proposed Budget for Fiscal Year 2010-11 (March, 2010)
2. Quarterly Reports:
 - a. For the Board's Information on the Kauai County Water Department Briefing on Departmental Projects (April, 2010)
 - b. Manager's Top 4 Goals for the Kaua'i Department of Water (April, 2010)
 - c. Strategic Plan Update: Issue Champions & Affordable Housing Reports (April, 2010)

UPCOMING EVENTS

1. AWWA, HI Section Workshop on Kaua'i – February 25-26, 2010 (POSTPONED)
2. AWWA, HI Section Annual Conference in Honolulu – May 19-21, 2010
3. AWWA National Conference in Chicago – June 20-24, 2010
4. Hawai'i Water Works Association (HWWA) Annual Conference, October 13- 15, 2010, Kaua'i

NEXT WATER BOARD MEETINGS

1. Thursday, March 18, 2010, 10:00 a.m.
2. Thursday, April 15, 2010, 10:00 a.m.
3. Thursday, May 13, 2010, 10:00 a.m. (date change)
4. Thursday, June 17, 2010, 10:00 a.m.
5. Thursday, July 15, 2010, 10:00 a.m.

ADJOURNMENT:

There being no further business, the meeting was duly adjourned at about 12:15 p.m.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

David R. Craddick, P.E.
Manager and Chief Engineer

rm