

REGULAR MEETING MINUTES  
BOARD OF WATER SUPPLY  
**Thursday, January 10, 2008**

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, January 10, 2008. Chairperson Roy Oyama called the meeting to order at 10:12 a.m. On roll call, the following answered present:

BOARD: Mr. Roy Oyama, Chairperson  
Mr. Ian Costa  
Mr. Dee Crowell  
Mr. Leland Kahawai  
Mr. Steven Kyono

Absent & Excused: Mr. Donald Fujimoto  
Ms. Bernie Sakoda

STAFF: Mr. Gregg Fujikawa  
Mr. Paul Ganaden  
Mr. William Eddy  
Mr. Keith Fujimoto  
Mr. Bruce Inouye  
Ms. Faith Shiramizu  
Ms. Amy Esaki  
Mr. Jeffery Mendez  
Mr. Dustin Moises  
Ms. Debra Togioka  
First Deputy County Attorney Harrison Kawate

Absent & Excused: Ms. Wynne Ushigome

GUESTS: Mr. Charles Carter (left the meeting at about 11 am)  
Mr. Cesar Portugal (left the meeting at about 11 am)  
Ms. Amy Day, CPS (11:10 am to 1:10 pm)  
Mr. David Ward (left the meeting at about 1:50 pm)

*Note: New Board Members Dee Crowell and Leland Kahawai were sworn in prior to the start of this Board Meeting.*

*In the absence of Acting Manager Wynne Ushigome, Gregg Fujikawa assisted the Board.*

**AGENDA**

Chair Oyama re-ordered the Agenda to have New Business No. G1, Request to Testify by Charles B. Carter on Subdivision No. S-2006-38, to be taken up after the Acceptance of the Agenda.

Mr. Costa moved to approve the Agenda, as amended, seconded by Mr. Kyono; motion was carried.

## **NEW BUSINESS**

**Re: Request to Testify by Charles B. Carter on Subdivision No. S-2006-38, Owners: Charles B. and Liane Carter, Subdivision of Lot 516, Land Court Application 1087, Map 61, into Lots 516-A and 516-B, Puhi, Kaua'i, TMK: 3-3-04:078**

Mr. Charles Carter and his consultant, Mr. Cesar Portugal, were present at the meeting:

Mr. Fujikawa gave an overview of the following background report:

### **RECOMMENDATION:**

It was recommended that the Board not approve the applicant's request to:

1. Waive the "additional source facilities for the area" condition and instead allow the extra 5/8-inch meter to the newly subdivided lot to satisfy the domestic water requirements.
2. Waive any future request for additional water service for any dwelling unit until such time as sufficient water service becomes available.

A water meter restriction policy is currently in effect for the Puhi area. The meter restrictive policy limits water service to two 5/8-inch water meters or two dwelling units per existing lot of record until adequate source facility improvements are provided for the Puhi area. Currently, developments (including subdivisions) that exceed two 5/8-inch water meters or two dwelling units are being affected by this water meter restrictive policy. The subject two-lot subdivision will create a four water meter/dwelling unit demand and will exceed the policy restriction.

Due to the existing R-6 zoning of Lot 516, the request to subdivide allows the applicant to double the developable density of the lot. Therefore, approving a subdivision without adequately providing the necessary water system improvement to meet the maximum demand of the newly created lots is contrary to the Department's Rules and Regulations.

In accordance with the Department's Rules and Regulations, Part III - Establishing Standards for Subdivision Water Systems, Section II – Availability of Water and Approval of Subdivision Map, Paragraph 1 states:

Extension from and connections to the public water system will be approved by the Department where pressure conditions permit, provided the following have been met:

- a. The Department has a sufficient water system developed for domestic use and, if required by the Department, a sufficient water system for fire protection.
- b. The additional service on the existing system will not be detrimental to people already being served in the area. In order to determine if the additional service will be detrimental to present consumers, the Department may require the subdivider to estimate the amount of water to be consumed by the subdivision water system.

**BACKGROUND:**

The Subdivision of Lot 516 is a proposed 2-lot subdivision. There is no consolidation of lots or boundary adjustments involved with this subdivision. Lot 516 is bordered by Puhi Road in Puhi, Kauai. Lot 516 is designated Residential R-6 under current Comprehensive Zoning Maps. There is currently one (1) 5/8-inch water meter assigned to Lot 516 and one existing dwelling unit and one other existing building on the original lot. The existing dwelling unit is located on proposed Lot 516-A. The other existing building is located on proposed lot 516-B. The existing water meter is located in front of Lot 516-B. (Reference **Exhibit 7** Preliminary Subdivision Map).

The Department of Water (DOW) subdivision "Additional source facilities for the area" condition is identified in the DOW subdivision report to the Planning Department dated May 5, 2006 (Reference **Exhibit 3**) and is also included in the Planning Department's tentative subdivision approval letter to the subdivider, dated June 14, 2006 (Reference **Exhibit 4**). The DOW condition reads as follows:

"3. Before final approval can be recommended, the subdivider must:

- C. Prepare and receive Department of Water approval of construction drawings for necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:

- 1) Additional source facilities for the area."

At the July 19, 2007 meeting between the DOW Acting Manager and the subdivider's surveyor and later by DOW letter, dated October 11, 2007 (Reference **Exhibit 5**), the DOW informed the subdivider that there were two alternatives to satisfy the additional source requirement for the subject subdivision application. The first option requires the subdivider to provide additional source capacity for the Puhi area or to wait for others to provide additional source facilities. The second option allows the subdivider to obtain source capacity (water allocation) from the Grove Farm Company for the proposed subdivision. According to several water agreements, Grove Farm is able to allocate source capacity to certain areas within the Lihue-Puhi-Hanamaulu area.

The lot owner, Mr. and Mrs. Carter was also made aware of the DOW restrictive water meter/ dwelling unit policy and the "additional source facilities condition for the area" condition through DOW water meter request letters dated July 18, 2005 and November 20, 2006. (Reference **Exhibit 1 and 2**)

There is no Board Rule or formal Department of Water (DOW) policy that allows the waiving of water system subdivision improvements except for Part 3, Section XIV "Non Development Agreements". The purpose of this rule is to assist families who wish to transfer interest in property between themselves without immediately complying with DOW rules and construction standards and specifications imposed when the family members request subdivision approval. However this Rule does not appear applicable to the current subdivider's request.

The allowance of waivers for the subdivision condition will not assure the completion of the required subdivision water system improvements. Once the subdivider is

allowed to waive these subdivision conditions and the subdivision is approved, the burden to complete the subdivision water improvements is essentially transferred to the future lot owner who like the subdivider may not be able to complete the improvements. There is a possibility that the approved subdivision will be created without ever being provided with adequate County water supply. The burden to provide and pay for the required subdivision development system improvement may eventually fall upon the Board and its consumers, the rate payers. Additionally the Board's exposure to increased liability may increase once the waiver of required subdivision water system improvements is allowed.

#### COMMUNICATION RECORD:

July 18, 2005: Water Meter Request Letter to Ms. Liane Carter: DOW granted conditional approval for two additional 5/8-inch meters for Lot 516, TMK: 3-3-04:078. The applicant was informed that additional source facilities for the area were a condition prior to DOW approval of water meter and building permit approvals.  
**(Reference Exhibit 1)**

November 20, 2006: Water Meter Request Letter to Mr. and Mrs. Carter: DOW granted conditional approval for two additional 5/8-inch meters for Lot 516, TMK: 3-3-04:078. The applicant was informed that additional source facilities for the area were a condition prior to DOW approval of water meter and building permit approvals.  
**(Reference Exhibit 2)**

May 5, 2006: DOW Subdivision Report ,S-2006-38: DOW recommended tentative subdivision approval. However, before final subdivision approval can be recommended, the subdivider must prepare and receive DOW approval of construction drawings for necessary water system facilities and either construct or post a performance bond for construction. These facilities shall also include:

- 1) Additional source facilities for the area
- 2) The domestic service connection.

**(Reference Exhibit 3)**

June 14, 2006: Planning Department Tentative Subdivision Approval, S-2006-38: The DOW conditions for final subdivision map approval were included in the Planning Commission tentative approval for S-2006-38. The DOW conditions included the preparation and receipt of DOW approval on construction drawings for necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall include:

- (1) Additional source facilities for the area
- (2) The domestic service connection.

**(Reference Exhibit 4)**

October 11, 2007 DOW letter to Mr. Cesar Portugal, S-2006-38: After meeting with the subdivider's surveyor on July 19, 2007 and in response to the subdivider's letter dated June 4, 2007, the DOW informed the subdivider that there were several options available to satisfy the additional source requirement for the subdivision which included but was not limited to:

1. The subdivider provides additional source capacity for the Puhi area or wait for others to provide additional source facilities for this area.

2. The subdivider obtains source capacity (water allocations) from Grove Farm Co. for the proposed subdivision.

**(Reference Exhibit 5)**

November 20, 2007 Subdivider Letter to the Board of Water Supply: Charles B. Carter, property owner request the Board's approval to assign the additional water meter to new subdivided lot and to allow him to waive any future request for additional water service for any dwelling unit until such time as sufficient water service becomes available.

**(Reference Exhibit 6)**

TESTIMONY:

On query by Mr. Crowell, Mr. Portugal explained that the owner initially requested to have 2 water meters, without the knowledge that he would be allowed only one meter. The owner, therefore, proceeded with his subdivision and paid the facilities reserve charge for the additional water meters and construction drawings were made.

Mr. Cesar Portugal gave some history that when Mr. Carter first inquired with Mr. Allan Smith, who was then working with Grove Farm. Mr. Smith indicated verbally that it would not be a problem for Grove Farm to allot Mr. Carter the 2 water meters. Subsequently, Grove Farm's ownership has changed and they could not get a response to their request so they gave up on their meter request. Mr. Portugal felt that it was understandable, as Grove Farm would want to have their water meters for their developments.

On query by Mr. Costa, Mr. Fujikawa explained that as Mr. Carter's property is part of Grove Farm's Puhi Water Master Plan, that there is enough water source from the Surface Water Treatment Plant.

Mr. Fujikawa added that there may have been some confusion with the last letter written to Mr. Carter that conditionally approved his 2<sup>nd</sup> and 3<sup>rd</sup> water meter, with the conditions of a requirement of additional source. This was the original requirement. Then at a later meeting with Mr. Portugal, it was brought forth about the Grove Farm option.

On query by Mr. Kahawai, Mr. Carter stated that the intent is to build a home for his son on the second property in the back. On query by Mr. Costa, Mr. Carter stated that the existing house is being used as a garage.

Mr. Kyono summarized Mr. Carters' situation that under the current departmental rules that he is allowed 2 water meters for Lot 516 for which he requested and paid the FRC charges. Mr. Carter concurred and Mr. Carter is now trying to subdivide Lot 516 into Lot 516A and 516B. Mr. Kyono stated that in Mr. Carter's situation there is no net increase of water meters. Mr. Portugal added that Mr. Carter also requests to have one of the FRC payments to be reimbursed to him.

On query by Mr. Crowell about the limitation of water meters per lot, Mr. Fujikawa reiterated about the Non-Development Agreement that allows landowners to subdivide and to convey title of their property to family members only, and to restrict

the landowner from further development until such time that adequate infrastructure is constructed and completed.

On query by Mr. Costa, Mr. Fujikawa stated that the Non-Development Agreement is used only for subdivisions and not for water meter requests; therefore, the Non-Development Agreement does not exactly fits Mr. Carter's situation.

Mr. Costa discussed that if in the future Mr. Carter decides to sell his lots that the new owner needs to be put on notice that no further water meters would be allowed until such time that the water system is adequate. On query by Mr. Costa on which route would satisfy this concern, Mr. Fujikawa stated that it would be the Board's decision on a case by case basis, as the Department does not have rules or policies on how to create restrictions or waivers. The Department has only rules for a Non-Development Agreement that would be part of the subdivision process when landowners want to transfer property within families, which would result in a restriction on further development.

Mr. Carter added that he stated in his previous letter to the DOW that he would not request in the future for another meter on that second lot.

Mr. Costa added that he wanted to ensure that staff in the future would have an easy way to recognize when a deed restriction exists, without actually contacting the Bureau of Conveyances.

On query by Mr. Crowell, Mr. Fujikawa stated that if Mr. Carter instead did not subdivide and/or CPR'd his lot, he would be allowed 2 water meters. It is because of the subdivision process that is creating his situation. Mr. Carter stated that he is aware of this situation but felt that the subdivision process was better to do. Mr. Portugal added that Mr. Carter's subdivision process has already taken about 2-1/2 years; therefore, they did not want to go the CPR route as that may take another 2 years or so. Mr. Carter's son is anxious to start his home.

Mr. Kyono moved that the Board approve Mr. Carter's request to allow the second meter; the approval is premised upon entering into a non-development agreement with the Department of Water and recorded at the Bureau for any further development for both lots, pay the facilities reserve charge for the second new meter, seconded by Mr. Costa.

Mr. Crowell stated that the restrictions should be stated on the subdivision map. Mr. Fujikawa added that it should also be on the deeds and the construction drawings.

Mr. Costa stated that the DOW would need to revise the report to the Planning Department, which Mr. Fujikawa concurred that would be the next step after the Board's decision, and a copy of the report will go to Mr. Carter.

Mr. Portugal concurred with the requirements. He added his suggestion that he felt that the Non-Development Agreement's terms and conditions were too restrictive and should be revised to eliminate the initial intent of the ability to only transfer of property within families. He felt that the Agreement should be simpler to only have the meter restriction and to be recorded with the deed.

Mr. Costa queried whether it could be specified in the Non Development Agreement that the restriction is for development beyond the one unit per lot. Mr. Fujikawa replied that it would be up to the Board.

The initial motion was withdrawn.

Mr. Costa moved to amend the motion to approve Mr. Carter's request with the condition that the applicant execute a Non Development Agreement specifically for the restriction of one meter and one unit per lot, seconded by Mr. Kyono.

On query by Mr. Carter, Mr. Costa stated that his garage is not considered a unit.

On query by Mr. Portugal, Mr. Fujikawa stated that the Non-Development Agreement is a temporary situation, whereupon, once there is adequate water infrastructure, this restriction would be lifted. This is stated in the Non-Development Agreement.

Mr. Carter added that he was planning to sell the front property as he has another home and no means to build a home there; however, his son will own the back property and build his home there.

Mr. Costa moved to further amendment his motion to approve the applicant's request with the condition that the Non Development Agreement be entered into specifically restrict each of the resulting lot to one water meter and one unit and also not restrict the transfer of any of the parcels outside of family members, second by Mr. Kahawai.

Mr. Fujikawa requested to also include this notice into the deed, subdivision map and the construction drawings. It was so noted.

Mr. Kyono discussed that as the long-standing Board Member, this Non Development Agreement was created a while ago with the specific intent to help families. He was a bit troubled that Mr. Carter would be selling his lot and that the Non-Development would be carte blanche to both lots when previous approvals were premised on keeping transferring property within families. He felt that from a legal standpoint that this would be setting a precedent.

Chair Oyama called for the vote: I. Costa: aye; L. Kahawai: aye; D. Crowell: aye; S. Kyono: nay; R. Oyama: aye. (4 ayes and 1 nay) Motion was carried.

Mr. Portugal added that he felt that the Board should review the Non-Development Agreement again as it should be revised as the Agreement is so general, for example, one of the things he noticed was that it does not spell out how far the relation could go. Mr. Costa discussed that the reason that he voted to approve this as the approval did not go beyond the 2 meters that are currently allowed for the lot. The Non Development Agreement allows that no other meters or development occurs until the water system is brought up to standards, upon which time, the restriction would be lifted.

Mr. Carter and Mr. Portugal thanked the Board and left the meeting at about 11:00 a.m.

**MINUTES:**

Mr. Kyono moved to accept the Regular Meeting Minutes of December 13, 2007, and placed on file, seconded by Mr. Costa; motion was carried.

**CORRESPONDENCE/ANNOUNCEMENTS:**

**Re: County Council’s Resolution No. 2007-109, Resolution Amending Resolution No. 2007-05, Confirming a Mayoral Appointment to the Board of Water Supply (Partial Term for Dee Crowell, which expires 12/31/09)**

**Re: News Article in The Garden Island, Dated December 29, 2007, on the Water Rate Increase Effective January 1, 2008**

Mr. Costa moved to receive the Correspondence for the record and placed on file, seconded by Mr. Crowell; motion was carried.

**OLD BUSINESS:**

**Re: WP 2020 Project No. WK-39, Drill and Develop Kapa’a Homesteads Well No. 4, 500 GPM, Wailua-Kapa’a Water System, Kapa’a, Kaua’i, Hawai’i**

Recommendation:

It was recommended that the Board approve an engineering budget increase in the amount of \$102,424.00 and approve a contingency amount of \$35,000.00, or approximately ten percent of the engineering budget for this phase of work. The scope of work and fee for the work has been negotiated, and this increase will allow the Department of Water to proceed with locating and constructing a test well. It was further recommended that the additional funding in the amount of \$137,424.00 be appropriated from Account No. 106b, CIP Reserve as the fee submitted exceeds the budgeted amount of \$250,000.00.

Funding:

Account No. 301, Facilities Reserve Charge (FRC) .....	\$250,000.00
HDR Engineering, Inc.....<\$352,424.00>	
10% Contingency.....<\$ 35,000.00>	
Total.....	<\$387,424.00>
Total Funds Requested, Acc. No. 301, FRC .....	< <u>\$137,424.00</u> >

Background:

The first phase of engineering work for Kapa’a Homesteads Well No. 4 includes performing studies to locate a test well and preparing construction contract documents for constructing and developing the test well. Both RW Beck and HDR/Hawai’i Pacific Engineers (Note: In 2007 HDR bought Hawai’i Pacific Engineers) have been negotiating a contract for locating and design of a test well since August 2007. Agreement has been reached on the scope of work and fee. The scope of work includes all studies, permitting, environmental documentation, design, well testing and engineering support during construction for the test well.

Design, permitting, environmental documentation, and engineering support during construction for the permanent well and connecting pipeline to the distribution system will be the subject of a future phase and funding request.

The estimated amount of the fee proposal is acceptable for the amount and complexity of work required.

Mr. Kyono moved to approve an engineering budget increase in the amount of \$102,424.00 and approve a contingency amount of \$35,000.00, or approximately ten percent of the engineering budget for this phase of work, to allow the Department of Water to proceed with locating and constructing a test well; and to approve the additional funding in the amount of \$137,424.00 be appropriated from Account No. 106b, CIP Reserve, seconded by Mr. Costa; motion was carried.

**Re: Contract Amendment for Job No. 04-04, PLH-9, Pipeline Replacement for Lihue Town, Lihue, Kauai**

RECOMMENDATION: It was recommended that the Board approve the contract amendment for Contract No. 445 with Akinaka and Associates, Inc, for the subject project.

**FUNDING:**

Job No. 04-04, Pipeline Replacement for Lihue Town	
Total Available Funding: .....	\$153,300.00
Contract No. 445, Akinaka & Associates, Inc. ....	\$146,000.00
Contract amendment #1 .....	\$ 11,400.00
Total Funds Required: .....	<\$157,400.00>
Additional Funds Required, Account No. 106.b, CIP Reserve:.....	<\$ 4,100.00>

**BACKGROUND:**

This project includes the design for:

- 380 Linear Feet of 2-1/2-Inch Copper Pipe along Ewalu Street
- 1,000 Linear Feet of 6-inch Ductile Iron Pipe along Umi and Ewalu Streets
- 1,300 Linear Feet of 8-Inch Ductile Iron Pipe along Kalena Street
- 800 Linear Feet of 8-Inch Ductile Iron Pipe along Kress Street
- 400 Linear Feet of 8-Inch Ductile Iron Pipe along Halenani Street
- 670 Linear Feet of 8-Inch Ductile Iron Pipe along Hoala Street
- 350 Linear Feet of 8-Inch Ductile Iron Pipe along Malama Street
- 160 Linear Feet of 8-Inch Ductile Iron Pipe along Pala Street
- 40 Linear Feet of 2-1/2-Inch Copper Pipe along Kalena Street
- 60 Linear Feet of 2-1/2-Inch Copper Pipe along Hoala Street
- 150 Linear Feet of 2-1/2-Inch Copper Pipe along Malama Street
- 150 Linear Feet of 2-1/2-Inch Copper Pipe along Pala Street

During the process of designing the waterlines, it was found that existing waterlines are within private property without easements in favor of the Kauai Department of Water. This contract amendment will allow the consultant to do the necessary work for the DOW to obtain these easements for the new pipelines along Kalena Drive, Hoala Street, and Pala Street.

The consultant, Akinaka & Associates, proposed \$11,400.00 and a time extension of 120 calendar days for this change in the project scope, which appears reasonable.

Mr. Costa moved to approve the contract amendment for Contract No. 445 with Akinaka and Associates, Inc, for the subject project, seconded by Mr. Kyono; motion was carried.

**Re: Discussion, deliberation and decision-making or action regarding steps, actions, procedures and processes necessary to select a new Manager and Chief Engineer of the Kaua'i County Water Department**

First Deputy County Attorney Harrison Kawate reported that Amy Day of Cooperative Personnel Services (CPS) was present at the meeting to review their scope of services and recruitment strategy with the Board.

The terms and conditions of the consultant's contract were being worked on prior to the January 10th meeting. In the meantime, the Department requested CPS provide an agenda or outline of the items that they plan to discuss during the meeting. A copy of their *Initial Meeting Agenda* was given to the Board.

**EXECUTIVE SESSION:**

ES-2008-1 – Pursuant to Hawaii Revised Statutes Sections 92-5 and 92-5(a)(2), the purpose of this executive session is to consider matters that require confidentiality under state law to wit, the selection of a new Manager and Chief Engineer for the Kauai Department of Water. The further purpose of this executive session is to meet with the consultant and to discuss the steps, actions, procedures, and processes necessary to select a new Manager and Chief Engineer and to consult with the Board's legal counsel on questions and issues relating to the Board's powers, duties, privileges and immunities and/or liabilities, as such powers, duties, privileges and immunities and/or liabilities relate to the foregoing item and to take such action as the Commission may deem appropriate.

Chair Oyama read the Executive Meeting Session ES-2008-1Notice above. There was no public testimony. Mr. Kyono to enter into Executive Session at 11:10 a.m., seconded by Mr. Costa; motion was carried. Staff was excused from the meeting.

The Regular Meeting reconvened at 1:12 p.m.

**NEW BUSINESS**

**Subject: SCADA System Annual Consulting and Maintenance Agreement**

**Recommendation**

It was recommended that the Board approve additional funding in the amount of \$50,000.00 for the subject SCADA System Annual Consulting and Maintenance Agreement.

**Funding**

Current Amount Available in Account No. 106: .....	\$ 50,000.00
Requested Additional Funds: .....	<u>\$ 50,000.00</u>
Total Proposed Funding .....	\$100,000.00

## **Background**

The Board approved in the 2007/2008 Budget an amount of \$50,000.00 for a SCADA System Integrator Consulting and Maintenance Contract. Since that time, we have been working with our SCADA integrator, FluidIQs, Inc., to develop a contract scope of work and a payment schedule. Below is a summary of the proposed contract:

1. Pua Loke SCADA System Maintenance. FluidIQs to provide a Network Engineer for forty (40) hours, two (2) times a year. The SCADA master computer equipment located in the Operations Building would be inspected for proper operation and software upgrade requirements by the FluidIQs Network Engineer. Total proposed annual cost including all expenses is \$15,900.00.
2. Remote Site Maintenance. FluidIQs to provide two (2) Field Service Engineers for forty (40) hours, four (4) times a year. Our SCADA system is comprised of over 90 remote sites. The Field Service Engineers would be inspecting each site to verify integrity of equipment, verify radio performance, verify battery backup operation, re-calibrate instruments, etc. Total proposed annual cost including all expenses is \$57,200.00.
3. System Technical Support. FluidIQs to provide support services to DOW via telephone and the digital highway to answer technical questions and assist in solving problems regarding the SCADA equipment. This service will be provided on an as-needed basis at the Network Engineers rate of \$130.00 per hour. The total estimated annual cost of this service is \$26,000.

It should be noted that the subject agreement does not include the cost of repair or replacement parts. Should the FluidIQs engineers find faulty or inoperable parts, the cost of parts will be charged separately. Funds for replacement parts are already available in Account No. 43A, Electrical Parts.

We have reviewed the proposal from FluidIQs and find that it is reasonable and necessary for the general maintenance and upkeep of the SCADA system. It was therefore recommended to approve the additional \$50,000.00 to allow for initiation of the subject agreement.

Mr. Kyono moved to approve the additional funding in the amount of \$50,000.00 for the subject SCADA System Annual Consulting and Maintenance Agreement, seconded by Mr. Costa; motion was carried.

## **Re: Request Board Approval to Rescind Board of Water Supply Policy No. 10 Relating to Temporary Assignment (TA), Dated September 10, 1970.**

Ms. Debra Togioka gave the following report to the Board.

### **Recommendation:**

It was recommended that the Board rescind Board Policy No. 10 regarding TA and all related memorandums referencing the application of Board Policy 10. A copy of Board Policy 10 was given to the Board for their information.

Temporary assignments shall be made in accordance with the respective Union Bargaining Unit Agreements and consistent with the County practice. The criteria and issuance of TA is a management matter; therefore, it should be delegated as an administrative function, not a Board policy matter.

Background:

In conjunction with Board Policy 10, the Department issued a Standard Operating Procedure (SOP) to clarify and define its temporary assignment procedure. This SOP was first issued on September 14, 1970 and Paragraph B.3 of the SOP similarly reflected the language in as stated in Board Policy No. 10.

Upon review of the current SOP No. 15, the Department is proposing revised language to clarify Paragraph B.3. From time to time questions arise regarding the interpretation and intent of Board Policy 10 that all temporary assignments be for a minimum of one full day except for assignments after regular hours or for days when the total time spent is less than eight (8) hours. Therefore, the proposed clarification states, *Employees receiving TA shall be compensated at the appropriate higher rate based on actual TA time worked.* A copy of the revised SOP is attached for your review.

If the Board approves the Department's recommendation to rescind Board Policy No. 10, the revised language in SOP 15a will take effect immediately and supersedes any internal department policy, memorandum or procedure on temporary assignments. In addition, SOP 15a will be transmitted to the Unions.

Mr. Kyono moved to rescind Board Policy No. 10 regarding TA and all related memorandums referencing the application of Board Policy 10, seconded by Mr. Costa; motion was carried.

**Re: Conveyance of Water Facility from Gass Pacific, LLC, for the Warehouse for Gass Pacific, LLC; TMK: (4) 3-3-12:038, Lihue, Kauai, Hawaii**

It was recommended that the Conveyance of Water Facility document be approved; whereby, Gass Pacific, LLC, transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: one (1) each, 2 ½-inch copper single service lateral for 2" detector check meter, for the Warehouse for Gass Pacific, LLC; TMK: (4) 3-3-12:038, Lihue, Kauai, Hawaii.

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Gass Pacific, LLC, seconded by Mr. Costa; motion was carried.

**Re: Conveyance of Water Facility from Brett J. and Lourdes H. Struhar for the Installation of Water Meter Servicing Lot 1-A, Hehi Road, TMK No. 3-7-01:028, Hanamaulu, Kaua'i, Hawai'i**

It was recommended that the Conveyance of Water Facility document be approved; whereby, Brett J. and Lourdes H. Struhar transfer unto the Board of Water Supply, County of Kauai, all of its right, title and interest to: One (1) 1-Inch Copper Lateral for

a 5/8-inch Water Meter, in place complete, for the Installation of Water Meter Servicing Lot 1-A, Hehi Road, TMK No. 3-7-01:028, Hanamaulu, Kaua'i, Hawai'i

Grant of Easement not required.

Mr. Kyono moved to approve the Conveyance of Water Facility from Brett J. and Lourdes H. Struhar, seconded by Mr. Costa; motion was carried.

**Re: Appointment of Finance and Rules Committees**

Chair Oyama appointed the following committee chairs and committee members to the Board's Finance and Rules Committees.

Finance Committee  
**Steven Kyono, Chair**  
All Board Members

Rules Committee  
**Dee Crowell, Chair**  
All Board Members

Mr. Costa moved to approve the Board Chair's appointments of the committee chairs and committee members to the Board's Finance and Rules Committees, seconded by Mr. Kyono; motion was carried.

**Re: Resolution No. 6 (07/08), Mahalo and Aloha Lynn P. McCrory**

Mr. Kyono moved to approve Resolution No. 6 (07/08), Mahalo and Aloha Lynn P. McCrory, seconded by Mr. Kahawai; motion was carried.

The resolution will be read at the Thursday, January 17, 2008 Mahalo and Aloha Dinner.

**Re: Resolution No. 7 (07/08), Mahalo and Aloha Bernie Sakoda**

Mr. Kyono moved to approve Resolution No. 7 (07/08), Mahalo and Aloha Bernie Sakoda, seconded by Mr. Kahawai; motion was carried.

The resolution will be read at the Thursday, January 17, 2008 Mahalo and Aloha Dinner.

**REPORTS**

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

There was nothing to add to the Statement of Kaua'i County Water Department's Revenues and Expenditures Report submitted by Waterworks Controller Ganaden.

**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

**Employee Events:** Operations Division, winners of the Department Christmas Decoration Contest, was treated to a Pizza Party on December 21<sup>st</sup>. Delicious pizza

was enjoyed by all who attended (leftovers were left for the operations employees that were out in the fields). Thank you to Bekki for ordering and picking up the pizza and to Carl and Andy for chilling the drinks. Thanks also to Kawika Smith from DLNR and Charlene "Ulii" Castor, a retiree from PMRF, for agreeing to take on the difficult task of judging!

**Drinking Water State Revolving Fund:** Proposed Project Forms for 3 projects to be added to the SRF Priority List were submitted. The projects to be added are: 1) Waha, Wawae and Niho Roads Main Replacement, 2) Kaumuali'i Highway Main Replacement (Kekaha) and 3) Waimea Well A and Kekaha Well B Renovations.

**Strategic Plan:** WATER Bucks were distributed to all employees as we kick off our Rewards Program as part of Issue 1, Improving Morale.

**Drought Mitigation:** Act 238 appropriates funds for drought mitigation projects in each county. Back in July 2007, the County of Kaua'i Drought Committee met and submitted several projects to be considered for funding. In early December, these funds were released by Governor Lingle. Kaua'i will receive \$1,000,000 of the \$4,000,000 appropriated from the Legislature. The DOW will be receiving \$530,000 for the Kekaha Amfac Shaft 11 Facility Testing, Evaluation and Reporting and \$170,000 for a County-wide Conservation and Education Program. The funding will be transferred from the DLNR Committee on Water Resource Management Division (CWRM) to the DOW by Memorandum of Agreement.

**Conservation:** The DOW will be joining the other counties in a Conservation and Leak Detection Cross County Collaboration, where the counties can share knowledge and information about leak detection and conservation programs. The first workshop will be on January 14 and 15, organized by the Honolulu Board of Water Supply.

**RE: SUMMARY REPORT OF MONTHLY OPERATIONAL MAINTENANCE:**

For information, a written report of the DOW's monthly operational maintenance was submitted to the Board by Acting Chief of Operations William Eddy.

**Re: DOW Quarterly Projects Briefing**

For information, a DOW Quarterly Projects Briefing Report was given to the Board, which included an Executive Summary for a quick overview of the quarterly report.

**RE: MANAGER'S UPDATE FOR DECEMBER, 2007 to JANUARY, 2008**

**CONTRACTS AWARDED BY THE MANAGER:**

1. MWH Laboratories – Laboratory Testing Services.
2. HT&T Truck Center – Furnishing & Delivery of One 19,000 Lb. GVWR Dump Truck

**PUMP INSTALLATION PERMITS SIGNED BY MANAGER:** None.

**WAIVER, RELEASE, AND INDEMNITY AGREEMENTS SIGNED BY THE MANAGER:** Pili Mai Model Building 10.

**Affordable Housing Update:**

Updates on Affordable Housing Task Force (AHTF) Projects:

1. DHHL – Anahola Residence Lots Unit 6, Pi'ilani o Kekai, Phase 1: No progress
2. Habitat - Eleele I Luna Subdivision Phase 2: Phase 2 granted tentative subdivision approval, no progress
3. Puhi Self-Help Subdivision – Grove Farm is responsible for completing the booster pump and off-site waterline improvements prior to DOW building permit/water meter approvals. Self-Help is recording the subdivision with the Land Court estimated completion by December '07. Self-Help anticipates 14 of 41 building permits applications will be requested in January '08. County Housing Agency will contact Grove Farm on completion of the Puhi 393 Booster Pump Station.

The following outstanding items are still required for certification of completion:

- a. Approved field pump test certification;
- b. Submittal of all required spare parts and owners operation/installation manuals;
- c. Removal of the temporary booster connections;
- d. Return of the temporary booster pump to the DOW Baseyard;
- e. Final inspection by DOW;
- f. As-built tracings;
- g. As-built cost breakdown, and;
- h. Conveyance of water facilities.

It was noted that the completion of the booster pump, etc. would benefit other Puhi affordable housing projects.

4. Kauai Lagoons – Kapule Project: No progress. The final Water Study Report has been submitted to the Department of Water. The 31 affordable units will be serviced by a new water meter, which will require development of off-site source and storage improvements. The Marriot Corporation is responsible for this project.
5. Kauai Lagoons – Waipouli Courtyard-executed Waiver, Release and Indemnity (WR&I) agreement (including posting a bond) with the Department. DOW has signed building permit on November 8, 2007.
6. KEO Transitional Housing Project Phase I & II: Units are occupied. This project will be taken off the AHTF agenda.
7. Kalepa Village Phase III & IV – Phase III- 40 unit multi-family development estimated occupancy by March 2008. DOW approved building permits for Phase IV in December '07.
8. Princeville Employee Homes: No report
9. Kukui'ula Employee Housing – Developer working with DOW on revising KDC Water Master Plan to include the workforce housing project.
10. Koheha Loa (Hanama'ulu Triangle): DOW reviewed the Water Mater Plan for the AMFAC/JMB Lihu'e-Hanama'ulu Master Planned Community Lands and met with the consultant on November 7, 2007. Kodani & Assoc. is currently revising the water master plan.
11. Paanau Village, Phase 2 – County Housing Agency added Phase 2 of Paanau Village as an affordable County project for tracking by the AHTF. The project site has received tentative subdivision approval and is covered by the County zoning amendment ordinance. Once final subdivision is granted and the parcel is conveyed, the County will contract an environmental review for 40-60 units. The subdivider is responsible for subdivision infrastructure improvements and the

County will be responsible for building and site improvements. This affordable housing project is included in the Kukui'ula Master Plan.

Next Affordable Housing Task Force meeting scheduled for Monday, January 14, 2008 at Pi'ikoi Conference Room A.

**Request to Testify at Water Board Meetings:**

With the recent change in our Board meeting dates to the second Thursday of the month, the Department wanted to clarify the deadline date for submitting an applicant's request to testify before the Board.

In order for an item to be on the following Board Meeting agenda, all necessary documents and supporting information should accompany an applicant's written request to testify and be submitted by the 15th of each month. This allows the Department to review and research the background, provide the necessary recommendations to the Board for consideration. Anything that comes after the 15th of the month will be automatically deferred to the following month's agenda.

In order to facilitate the receipt and preparation of Board Reports, the Department is clarifying procedures and deadlines for any person(s) requesting to testify before the Board. We are redistributing the attached *Requirements to Testify at Water Board Meetings* to inform Board members of the submittal due date for anyone requesting an appeal before the Board. The procedures and guidelines afford the staff time to research, compile and prepare a written report to the Board.

If additional information is hand-carried and submitted for consideration at or during the Board meeting, the Department requests "automatic" deferral since staff has not had the opportunity to review the documents.

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

This matter was taken care of at the Finance Committee Meeting.

Mr. Kyono moved to receive all of the reports above for the record, seconded by Mr. Costa; motion was carried.

**STRATEGIC AND BUSINESS PLAN AND NEEDS ASSESSMENT**

**Re: Updates on the Kaua'i Water Department's Strategic and Business Plan and Water Plan 2020 Program Sustainability Services**

Mr. Fujikawa introduced a member from the public, Mr. David Ward, of Lihue, who requested to testify on specifically Item I.

Mr. David Ward submitted binder reports to all Board members and staff and gave a summary of his perspective and concerns on the oil crisis, how it affects water utilities and how we should set aside Water Plan 2020 until an energy audit is conducted and an energy sustainability of the system can be assured. He felt that emergency

contingency plans need to be formulated and in place in case of emergencies as our water supply system is dependent on oil-powered electricity to function.

In response to Mr. Ward's presentation, Mr. Fujikawa added that the DOW does have gravity flow facilities at Moelepe and Makaleha in upper Kapa'a Homesteads, which have been in operation since 1925 or so until today. Both of these facilities were very important during the hurricane as it was not dependent on any electricity or petroleum and could continue to deliver water to upper Kapaa and Wailua Homesteads. Mr. Fujikawa added that also the Kokolau Tunnel was able to still deliver water to the Lihu'e area during the hurricane. He concurred with Mr. Ward that using an alternative or primary water source makes a lot of sense.

Chair Oyama concurred that a sustainability plan needs to be in place, which would not happen overnight. Mr. Ward hoped that changes could be made before it becomes a life and death situation.

The Board thanked Mr. Ward for his presentation and insight. Mr. Ward left the meeting at about 1:50 p.m.

Mr. Fujikawa gave the following report:

**Updates of Strategic Goals and Implementation Status Report:**

On December 19, 2007, conference call with the Issue Champions and RW Beck was held to review the status and follow up on the progress of the various tasks. Based on these discussions, RW Beck plans to prepare and summarize the progress of the various tasks and activities at the Board's January meeting.

An updated summary of the highlights of the Task Plans and Affordable Housing Projects are provided for your review. (The "Board Briefing: Strategic Plan Implementation Status Report" dated December 31, 2007, prepared by RW Beck was given to the Board for their information.)

**Affordable Housing Projects**

Although not directly a part of Plan Implementation, a summary of the Affordable Housing Project activities was included for the Board's reference.

This memorandum is a summary of progress on the Affordable Housing Projects for your reference.

Details are provided below.

- ✓ The Kapilimao 0.5 MG Storage Tank final design is proceeding, although progress in December was less than past months. A number of activities scheduled for completion in December are still outstanding. Engineering work is nearly complete, and the consultant is being urged to finish it off. An updated schedule is being prepared.
- ✓ A Notice to Proceed for AMFAC Shaft 11 Renovation Phase 1B (Field Pump Testing) was issued January 2. The consultant is mobilizing hazmat and pump testing subcontractors.

- ✓ The Board approved an early start to final design of AMFAC Shaft 11 Renovation at the December Board meeting. A procedural issue reportedly will require the issue to be considered by the Board again in January. In addition, it was recently reported by staff that the consultant procurement process must be repeated for Phase 2. The start of final design will be delayed until the procurement process is complete.
- ✓ Staff and consultant are currently obtaining right-of-entry from adjacent landowner at the Kapahi 1.0 MG Storage Tank
- ✓ Final design for the Kapa'a Homesteads 0.5 MG Storage Tank is nearly complete. Consultant has been urged to finish up the design in preparation for construction contract advertisement. An updated schedule is being prepared.
- ✓ Scope and fee negotiations are complete with HDR Engineering (Hawai'i Pacific Engineers) for design of Kapa'a Homesteads Well No. 4. HDR's Attorney is making final review of contract.
- ✓ SSFM continues final design of the Akulikuli Tunnel renovation. Land surveying and environmental field work are underway, and an EA pre-consultation package has been submitted to the appropriate agencies.

A decision regarding the addition of water treatment to the project is still pending.

#### Mark Salmon's Projects' Reports:

1. **(KW-25), Kapilimao 0.5 MG Tank-Summary Project Status Jan., '08**  
Project Manager: Mark Salmon -- Design Consultant: Brown and Caldwell

Work underway: final design, permitting and environmental assessment

Work ahead: complete final design, construction

Current Major Area of Focus: final design submittal, final EA and easements

Potential obstacles: none currently

Tentative Date Project in Service: December 2008

- Summary: Design progress continues, although December was less productive than past months. The pre-final design submittal was made 11/14. The final Final Environmental Assessment and FONSI, due 11/7/07, are still being worked on. Draft parcel and easement maps, due 11/8/07, are still being worked on. NPDES and County Use Permits were scheduled to clear agency reviews 11/5/07, but comments have not been received.
- Contract Status: Design contract executed.
- Schedule: Some final activities are taking longer than projected. Completion of design was scheduled for 2007, and obviously is not done. An updated schedule has been requested, and the consultant is being urged to finish up.
- Permits: Various required permits under agency review. Agency reviews scheduled for completion in November, but not received as of 1/2/08.
- Land & Easements: Preparation of parcel and easement maps was scheduled for October and drafts were scheduled for submittal to DOW 11/8/07. Work started 11/15, and maps have not yet been received.
- Agency Coordination: See Permits.
- Problems and Proposed Mitigation: Schedule is slipping. See above.

**2. (KW-28), Amfac Shaft 11 Renovation–Summary Project Status Jan. '08**  
Project Manager: Mark Salmon -- Design Consultant: Brown and Caldwell

Work underway: Hazardous materials sampling and pump testing.

Work ahead: final design, environmental/permitting, construction

Current Major Area of Focus: mobilization of hazmat and pump testing subcontractors

Potential Obstacles: water quantity and quality unknown – testing pending

Tentative Date Project in Service: December 2008

- Summary: Contract is completely executed. A Notice to Proceed is planned for January 2. A request for approval to proceed with early design was presented to the Board in December and approved. The request may be resubmitted in January to ensure compliance with procedure. It was recently reported by staff that the consultant procurement procedure must be repeated for final design, so final design will be delayed until completion of that process.
- Contract Status: Phase 1B complete. Phase 2 contract delayed pending completion of consultant procurement.
- Schedule: See Problems and Proposed Mitigation below.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Repeat of consultant procurement process will delay start of Phase 2 (final design).

**3. (WK-08), Kapahi 1.0 MG Storage Tank–Summary Project Status Jan. '08**  
Project Manager: Mark Salmon -- Design Consultant: Belt, Collins

Work underway: final design

Work ahead: final design, environmental/permitting, construction

Current Major Area of Focus: Final design, updated schedule

Potential obstacles: easement acquisition from private landowner

Tentative Date Project in Service: March, 2009

- Summary: Right-of-entry for engineering investigations is being obtained from landowner adjacent to site.
- Contract Status: See above.
- Schedule: Current schedule shows project completion in March '09. Updated schedule due.
- Permits: No issues.
- Land & Easements: Consultant and DOW staff obtaining right-of-entry from adjacent landowner for surveying and other engineering investigations.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Project configuration and landowner issues not yet resolved. Analysis and final resolution part of current phase scope of work.

**4. (WK-09)Kapa'a Homesteads 0.5 MG Storage Tank–Summary Status Report–Jan. '08** Project Manager: Mark Salmon --- Design Consultant: Belt, Collins

Work underway: final design

Work ahead: bidding and construction

Current Major Area of Focus: final construction documents

Potential obstacles: none currently

Tentative Date Project in Service: July 2008

- Summary: Engineering work is nearly complete and project should be ready to advertise for construction in January '08. The projected date on which a construction contract can be advertised should be available shortly.
- Contract Status: Contract complete.
- Schedule: No issues.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: No issues.

**5. (WK-39) Kapa'a Homesteads Well No. 4--Summary Status Report--Jan. '08**

Project Manager: Mark Salmon

Design Consultant: Selected, but not yet under contract

Work underway: contract negotiation

Work ahead: well design, environmental/permitting and construction

Current Major Area of Focus: consultant contract

Potential obstacles: none currently

Tentative Date Project in Service: December 2008

- Summary: Fee estimate and scope of work negotiation complete. Consultant's attorney still reviewing contract language. Board will be asked to approve engineering budget augmentation this month.
- Contract Status: See above.
- Schedule: No issues.
- Permits: No issues.
- Land & Easements: No issues.
- Agency Coordination: No issues.
- Problems and Proposed Mitigation: Work not yet underway. Contract negotiations have been slow.

**6. (WK-02) Akulikuli Tunnel Renovation--Summary Status Report -- Jan. '08**

Project Manager: Mark Salmon -- Design Consultant: SSFM Int'l

Work underway: final design

Work ahead: final design, environmental/permitting and construction

Current Major Area of Focus: final design.

Potential obstacles: water quantity and quality unknown -- potential addition of treatment

Tentative Date Project in Service: December 2008

- Summary: SSFM working on final design. Consultant and DOW staff conducted field trip 11/5/07. Land surveying and environmental surveys

underway. Potential still exists to add water treatment to project. Staff is discussing options.

- Contract Status: No issues.
- Schedule: Revised project schedule due.
- Permits: SSFM has obtained a right-of-entry from DLNR for surveying, environmental work, etc.
- Land & Easements: No issues.
- Agency Coordination: Pre-consultation package for agencies involved in EA review was mailed in early December.
- Problems and Proposed Mitigation: Addition of water treatment to project still possible. Staff is discussing options internally and may ask for more information prior to making a decision whether or not to proceed with treatment engineering. Addition of treatment to project will almost surely extend project completion date.

### **RFP Committee Report**

The RFP document was pending peer review with a deadline of Friday, January 4, 2008. Thereafter, the committee will incorporate all comments and will report at the February 14, 2008 Board Meeting.

### **Strategy and Action from the Issue Champions for the Next Six (6) Months:**

PR Specialist Shiramizu reported that since the Board remanded the “next step” option(s) back to the Issue Champions for further discussion, the Issue Champions met on Wednesday, December 12, 2007 to collectively focus their attention on effectuating Issues 2 and 5. Issue 2 is to attract and retain a strong qualified workforce and Issue 5 is focused on instilling accountability and commitment throughout the organization. In addition, the other champions will continue working on their issues with support from the Manager and Division Heads.

A second follow-up meeting was scheduled for January 11, 2008 as the committee was not able to meet any earlier as hoped so a report could have been submitted to this Board Meeting.

The next step options and plan for 2008 are still being discussed and formulated. The Issue Champions will continue to meet monthly and provide the Board with an update and status of their progress.

Chair Oyama asked Ms. Shiramizu to forward the Board’s thanks to the issue champions and to keep moving.

Mr. Costa moved to receive the reports and placed on file, seconded by Mr. Kahawai; motion was carried.

### **EXECUTIVE SESSION:**

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

1. **Executive Session Meeting**

***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).***

- a. ES-2008-2 - Pursuant to Hawai'i Revised Statutes §§92-4 and 92-5(a)(4), the purpose of this executive session is to discuss and consult with staff and the Board's legal counsel on the legal issues relating to R W Beck's proposed employee manual and to consult with the Board's legal counsel on questions and issues relating to the Board's powers, duties, privileges, immunities, and/or liabilities and take such action as the Board may deem appropriate with respect to the foregoing item.

Chair Oyama read the Executive Meeting Session ES-2008-2 Notice above. There was no public testimony. Mr. Costa moved to enter into Executive Session at 1:55 p.m., seconded by Mr. Kahawai; motion was carried. Staff was excused from the meeting.

- b. **Review of Executive Session Minutes: December 13, 2007** – Board accepted and placed on file.

The Regular Meeting reconvened at 2:35 p.m.

**ADJOURNMENT:**

There being no further business, Mr. Costa moved to adjourned the meeting at 2:35 p.m., seconded by Mr. Crowell; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Gregg Fujikawa for Wynne M. Ushigome  
Acting Manager and Chief Engineer

rm