

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, January 8, 2009

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, January 8, 2009. Chairperson Leland Kahawai called the meeting to order at 10:17 a.m. On roll call, the following answered present:

BOARD: Mr. Leland Kahawai, Chairperson
Mr. Ian Costa
Mr. Donald Fujimoto (present at about 11:10 am)
Mr. Raymond McCormick
Mr. Randall Nishimura

Absent & Excused: Mr. Dee Crowell
Mr. Roy Oyama

STAFF: Ms. Wynne M. Ushigome
Mr. Paul Ganaden
Mr. Gregg Fujikawa
Mr. William Eddy
Mr. Keith Fujimoto
Ms. Faith Shiramizu
Ms. Amy Esaki
Deputy County Attorney Jim Tagupa

Absent & Excused: Mr. Bruce Inouye

GUESTS: Mr. Lindsay Crawford, Kukui'ula Development LLC (left about 10:53 am)
Mr. Tom Shigemoto, A&B Properties (left about 10:53 am)
Mr. George Hoffberg (10:53 – 10:57 am)
Mr. Ben Welborn (left at about 11:02 am)

AGENDA

Chair Kahawai re-ordered the Agenda to have Old Business No. F4, Request Board Approval of Job No. 02-01, Kukuiolono Tank Site Exchange, Kalāheo, Kaua'i, First Amendment, to be taken up after Old Business No. F2.

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

MINUTES:

Mr. Nishimura moved to receive the Regular Meeting minutes of Thursday, December 11, 2008 and place on file, seconded by Mr. Costa; motion was carried.

CORRESPONDENCE:

Re: Letter from Lidi White, Manager of Aukahi Farm LLC for the Koloa 1.0 MG Tank, TMK: 2-7-03:008, Koloa, Kaua'i

Mr. Nishimura moved to accept a letter from Lidi White dated December 16, 2008, seconded by Mr. Costa; motion was carried.

Re: Article in the Building Industry Digest, titled "Trying Times on Molokai – Can a Business Expect Government to Step in When Things Get Difficult?" by Mayor Charmaine Tavares, County of Maui

Mr. Costa moved to accept this correspondence, seconded by Mr. Nishimura; motion was carried.

OLD BUSINESS:

Re: Status Report by Kukui'ula Development Company (Hawai'i) LLC

Mr. Lindsay Crawford of Kukui'ula Development and Mr. Tom Shigemoto of A&B Properties were present at the meeting. Acting Manager Ushigome gave the following report:

Kukui'ula has submitted a monthly status update on their project. As part of their Approval of a DOW Waiver, Release & Indemnity Agreement Request for: 1) *Subdivision Y Cottages, S-2005-25, TMK: (4) 2-6-016: 016 thru 088; and, 2) Subdivision Y Custom Home Sites, S-2005-25; and, 3) Subdivision M1/M4 Custom Home Sites, S-2005-21, Kukui'ula Development, Kukui'ula, Kaua'i, Hawai'i*, the Board requested monthly status updates on Kukui'ula's project.

The Department met with Kukui'ula's staff and design consultant for the Piwai Tank on December 23, 2008. At this meeting, the different options for accommodating the Piwai overflow problem were discussed. During our discussion, it came to light that there is another operational constraint not previously considered. The Akemama Tank booster pumps are unable to start without adequate pressure provided from the tank. It appears the booster pumps need about 10 to 12 feet of water in the Akemama Tank in order to operate. With this new bit of information, the Department needs to reconfirm the pressure requirements for the booster pump with the Operations staff before making a decision. (Bill Eddy returns from leave on January 7, 2009.)

Most of the options on the table are interim solutions, except the option to extend the height of the Piwai Tank spillway. The long-term or permanent solution would be the construction of the Department's 0.5 MG 'Oma'o Tank. It was agreed, if any of the interim solutions are sought, the burden of financing and constructing the interim solutions will be the responsibility of KDC.

The question posed to KDC was if the Department needs to accommodate the Piwai Tank spillway elevation discrepancy until a permanent tank is constructed, will KDC

relinquish its right to claim compensation for the cost difference between constructing a stainless steel tank versus a concrete tank and for cost associated with relocating the Piwai Tank to the future DOW tank site. See Item #4 in DOW's letter to KDC dated July 27, 2004 for background and conditions agreed to by the Department.

Acting Manager Ushigome discussed that the DOW's accommodation is basically as we run Piwai and our system together, Piwai Tank reaches a 'high-high' level in the early mornings about 1-2 am. This is a result that Piwai Tank is built below Akemama Tank spillway elevation. She added that they have been trying to adjust the controls; however, we still often get early morning calls.

On query by Mr. Nishimura, Mr. Eddy stated that this problem is due to the elevation discrepancy with both tanks and is adding limitations to the facility.

Acting Manager Ushigome also discussed that one of the solutions is to add a second booster pump to allow additional pressure for the existing pump.

Kukui'ula's Update Report: Submitted by Lindsay Crawford, Senior Project Manager of Kukui'ula Development Company (Hawaii) LLC.

Water System Completion:

All water system improvements are complete and operating, excluding the two Manuhonuhonu Tanks. This month the two (2) booster pumps at Manu Tank 425 passed their 48-hour operational testing. DOW staff and Kukui'ula continue to discuss commissioning alternatives due to the fact that no users for the 425 zone will be in place for another year.

Piwai 0.1 MG Tank Spillway:

DOW staff, Tom Nance, Esaki, Surveying, and Kukui'ula again met on December 23, 2008 to discuss the Piwai 0.1 MG temporary tank spillway issue. Of the numerous alternative solutions presented by Tom Nance, the 'future altitude valve at Piwai' solution (perhaps with a small booster pump at Akemama) seems to be the best overall (interim) solution.

Mr. Crawford added that Kukui'ula would be willing to pay approximately \$68,000 to correct the pump situation if that is the chosen DOW solution. Mr. Nance was working on sketches to resolve the problem. Mr. Crawford added that whatever is the solution, they are dedicated to come to a solution.

Mr. Crawford discussed that clearly the only solution that they do not like is knock off the top of the tank off as it is scarest and most difficult solution.

DOW staff has indicated that a final decision could be delivered as soon as January 7th.

Mr. Crawford also stated that there will be more discussion on the allowable reimbursements and a need to compromise. He added that the potential cost of relocating this tank to a new tank site, along with the waterlines & appurtenances

would be about \$350,000 of work. This he felt would be a clear reimbursement as the DOW would benefit if they relocated their tank and its appurtenances that the DOW would benefit later when we do build our 500,000 gallon tank at that same site.

However, the issue of the concrete vs. steel tank at Piwai would cost about \$340,000 of additional work. For this issue on reimbursement, Mr. Crawford felt that once they install altitude valves, which are for the future as it is not needed now, they will spend about an additional \$160,000. With this valve, the DOW would feel the full benefit as far as what was originally intended as far the Piwai Tank. Piwai Tank, Akemama Tank, and the new 500,000 tank could fill up to its maximum. However, with the alternative way to run the system may be different and inconvenient now and in the future.

Mr. Crawford stated that he would have to get back to his office to check with them on how they would want to handle this as he knows that the DOW does not want to include the cost of the concrete tank reimbursement to Kukuiula. He felt that the DOW and Kukuiula could compromise and offer something in return.

On query by Mr. Crawford, Mr. Fujikawa stated that having 2 tanks that are of equal elevation are not old fashioned as it is efficient to operate and maintain and tanks are designed that way nationwide and globally. It is simple, efficient and cost effective.

Water System Conveyance:

Conveyance documents and Grants of Easements for the majority of the system improvements have now been accepted by the Board leaving only the Piwai Wells, Tank and Transmission Lines and the two (2) Manuhonuhonu Tanks.

Waiver, Release and Indemnity Agreements:

Waivers for the first ten building permits have been signed and recorded. Waivers for the next seven Cottage lots in Subdivision Y and the first Custom Home lot in Subdivision M1/M4 were submitted in October and are awaiting DOW signature. Building permits for tenant improvements at our Commercial site were approved by the DOW.

Water Master Plan Update:

Kukui'ula met again with staff last October and will re-submit a new version of the Updated Master Plan (based on a new market-driven, build-out schedule) in January, 2009.

On query by Mr. Nishimura, Mr. Crawford stated that the Water Master Plan is ready to print and should be turned into the DOW this month.

Commercial and Residential Openings/Occupancies:

The anticipated grand opening of the Kukui'ula Village Shopping Center is May of 2009. The first residential homes in Subdivisions Y and M1M4 are still a year or more away from being ready for occupancy. Plantation Core broke ground in September, 2008 but will be over two years in construction before occupancy.

Mr. Nishimura moved to receive both staff and Kukuiula's reports and place on file, seconded by Mr. Costa; motion was carried.

Mr. Crawford and Mr. Shigemoto both left the meeting at about 10:53 a.m.

Re: Subdivision of Parcel 4, TMK:4-3-03 (S-2006-44), Being a Portion of Royal Patent 7375, L.C. Award 8559-B, Apana 42 to W.C. Lunalilo, Situated at Waipouli, Kawaihau, Kauai, Hawai'i, into Lots 1 through 11, inclusive

Mr. George Hoffberg was present at the meeting:

Acting Manager Ushigome submitted an update report below on what transpired for George Hoffberg's situation since he last appeared at the December 11, 2008 Board Meeting.

APPLICANT: George Hoffberg

LOCATION: Olohena (Kawaihau). The property is located approximately 300 feet North-West of the intersection of Hauiki and Waipouli Roads and is further identified by Tax Map Key 4-3-03:4 affecting a total area of approximately 27 acres.

Update

The Department met with Mr. George Hoffberg and his attorney Glen Hale on Monday, December 29, 2008 to review the applicant's request to service his subdivision from a private water (well) system.

Prior to this meeting the staff reviewed the conditions of the tentative subdivision approval report and proposed the following revisions for final subdivision approval. Mr. Hoffberg is reviewing the revised subdivision conditions with his design engineer and the Kaua'i Fire Department with regards to the fire protection requirements of the subdivision.

The revised subdivision comments for S-2006-44, George Hoffberg, TMK: 4-3-3:4 are as follows:

Add the following to the Subdivision Report S-2006-44 dated 7-26-06 as condition under item

5. Other (or remarks):

- C. Subdivision Private Well Water System: If the proposed subdivision will be serviced by a private on-site subdivision water system instead of the Department of Water's (DOW) domestic water system the following will be the Department of Water's comments:**

Prior to the Department of Water recommending final subdivision approval (with water service from a private well water system), the subdivision applicant/lot owner shall:

- 1. Clearly letter the following on the certified construction drawings, final subdivision map and deeds:**

“For those lots (“Lots”) that will receive potable water service, agricultural water service and fire protection services from a private water system to be constructed by the Owner (“Private Water System”), the Owner, his successors and assigns will prepare, execute and record a “Waiver and Release Agreement” with the Department of Water prior to any building permit approvals for the Lots, to acknowledge and agree that no service for potable water, irrigation water and/or fire protection shall be provided from the County water system to the Lots and also agree to waive, release and indemnify the DOW from any liability for damages or injuries which may arise from the DOW approving building permit on the Lots that will receive water from the private water system. The Private Well Water System shall serve all current and future water demands from the Lots. The Owner shall provide fire protection by installing, operating and maintaining the Private Water System and onsite fire hydrant with applicable easements and with notification to the Kauai Fire Department.

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

- 2. Be responsible for the design, construction, operation, and maintenance of the private well water system which should provide adequate domestic and fire protection capacity for existing and proposed water demands for the subdivision/lots. A licensed engineer shall certify that the private water system for the subdivision meets DOW Standards.**
- 3. Be made aware that the Private Water System shall conform to the Rules and Regulations and the construction standards of the Department of Water and be in compliance with all other government agency requirements.**
- 4. Construct the private water well system improvements for this subdivision or enter into an agreement guaranteeing the construction of improvements for this subdivision and provide a bond or security. If a bond is filed, to secure final**

subdivision approval, the subdivider shall clearly letter the following on the certified construction plans, final subdivision map and deeds:

- a. **“Water service will not be available until the required construction improvements for this subdivision are completed and operational”**

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.”

5. **Clearly locate and identify the two existing water meters on the preliminary subdivision map and which newly created lot it will be assigned to, for Department of Water’s review and approval. The Department of Water’s comments may change depending on the approved preliminary subdivision map.**
6. **Be made aware that the newly created lot(s) that will be serviced by the existing water meters shall not have a dual water system for domestic consumption. The Department of Water’s comments may change depending on the approved construction drawing for the proposed private water system.**
7. **For lot(s) that are serviced by the Department of Water’s domestic water meter, clearly letter the following on the certified construction drawings, final subdivision map and deeds:**

“Development on the lots that are serviced by the Department of Water’s potable water system shall be limited to one single family detached dwelling and one guest house per water meter. The term “single family detached dwelling” and “guest house” shall have the same meaning as contained in the Comprehensive Zoning Ordinance of the County of Kauai.”

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.”

8. **Be made aware that the Department of Water’s Facilities Reserve Charge will not be applicable to newly created lots that will be serviced from a private water system.**

Mr. Hoffberg reported that Lot 1 and 2 will have a public water system, which he conferred with the Fire Department, who indicated that. He also assured the Board

that the DOW's requirements will be followed and, in addition, he would be installing sprinklers.

Acting Manager Ushigome stated that the next step would be to send a revised report to the Planning Department. On query by Acting Manager Ushigome, Mr. Hoffberg concurs with all of the above conditions. Mr. Fujikawa stated that the Department sent a revised report to the Planning Department earlier this week, along with copies to Mr. Hoffberg, his legal counsel, Glen Hale, and his consultant.

Mr. Costa moved to receive this update report, seconded by Mr. Nishimura.

Mr. Nishimura asked if the Board still needed to approve his private water well service application. Mr. Fujikawa stated that the Department approved that application and was stated in the revised subdivision report.

Motion was carried.

Mr. Hoffberg left the meeting at about 10:57 a.m.

Re: Request Board Approval for Job No. 02-01, Kukuiolono Tank Site Exchange, Kalāheo, Kaua'i, First Amendment

RECOMMENDATION: It was recommended that the Board approve the first contract amendment with Wagner Engineering Services for the following items:

1. Delete the preparation and processing of an environmental assessment.
2. Delete a portion of the cultural impact assessment.
3. Provide additional consultation and coordination services with the landowner and the Department of Land and Natural Resources.

FUNDING:

Job No. 02-01, Kukuiolono Tank Site Exchange:	\$ 44,016.70
Wagner Engineering Services Contract #484 .	\$ 44,016.70
Amendment #1	<u><\$ 4,870.47></u>
Total Contract Amount	<u><\$ 39,146.23></u>
Balance Remaining	<u>\$ 4,870.47</u>

BACKGROUND:

The Office of Environmental Quality Control determined that an environmental assessment was not required for this work. Therefore, Wagner Engineering Services, consultant for this project deleted that portion from the contract, amounting to \$5,400. Additionally, they determined that they could use some of a previous study of the Kukuiolono Park, which resulted in an additional \$2,275.95 savings.

However, they encountered additional work requiring further consultation and coordination with the landowner (McBryde Trust) and the Department of Land and Natural Resources amounting to \$2,805.48, resulting in a decrease in the total project by \$4,870.47.

Mr. Costa moved to approve the first contract amendment with Wagner Engineering Services, seconded by Mr. Nishimura; motion was carried.

Acting Manager Ushigome introduced our consultant for this project, Mr. Ben Welborn, who was present at the meeting. Mr. Welborn thanked the Board for the opportunity to work with the DOW.

Mr. Welborn left the meeting at about 11:02 a.m.

Re: Request Board Approval of Job No. 03-02, HW-02, HW-03, Facilities Renovation at Various DOW Sites, Wainiha-Haena Tank, Second Contract Amendment

RECOMMENDATION: It was recommended that the Board approve the second contract amendment with Brown and Caldwell, consultants for this project for the following work:

1. Design of an 8” ductile iron replacement waterline approximately 550 feet in length, along with the access road improvements for the refurbishing of the existing 0.1 MG Haena Steel Tank and
2. Design the relocation of the existing SCADA equipment cabinet.

It was further recommended that the Board reallocate \$27,610.00 from Account No. 106B, CIP Reserve to fund the balance required.

FUNDING:

Total Fund Available	\$353,901.00
Contract No. 428, Brown and Caldwell	
Job No. 03-02, Renovations at the Wainiha	
Steel Tank	\$322,182.00
Amendment #1	\$ 31,719.00
Amendment #2	<u>\$ 27,610.00</u>
Total Required.....	<u><\$381,511.00></u>

Additional Funds Requested, Account No. 106B, CIP Reserve < \$ 27,610.00 >

BACKGROUND:

Although the existing 8-inch asbestos cement pipe has not been an operational problem, it has historically given the Department problems at other areas. The project includes the installation of an all weather access road (concrete) over the existing waterline. If the pipeline is not replaced and becomes a problem in the future, we will need to cut the pavement, which increases the repair work and costs.

The existing supervisory control and data acquisition (SCADA) cabinet was installed in the proposed perimeter road around the tank prior to this project and needs to be relocated.

The project consultants, Brown and Caldwell submitted a proposal of \$27,610.00 for the work, which appears reasonable.

Mr. Costa moved to approve to approve the second contract amendment with Brown and Caldwell, seconded by Mr. Nishimura; motion was carried.

Re: Request Board Approval for Job No. 05-03, WK-25, Kapilimao 0.5 Million Gallon Tank and Job No. 03-03, Hardening of Generator Shelters at the Kapilimao Well Site. Kekaha, Kauai, Hawaii, Second Contract Amendment with Brown and Caldwell

RECOMMENDATION: It was recommended that the Board approve the second contract amendment with Brown and Caldwell, consultants for this project to verify the tank levels between the existing Paua Valley Tanks with the proposed Kapilimao Tank and to compensate the consultant, Kodani & Associates, Inc., for the review, modifications and as-needed construction support and consultations. It is further recommended that the Board reallocate \$2,720.00 from Account No. 106B, CIP Reserve to fund the balance required.

FUNDING:

Total Funds Available, Job No. 05-03, WK-25, Kapilimao 0.5 Million Gallon Tank, Kekaha, Kauai, Hawaii.	\$318,700.00
Contract 460, Brown and Caldwell. \$303,436.00	
Current Estimate, Amendment #2 . \$ 17,984.00	
Total Required	<\$321,420.00>
Balance Required from Account 106b CIP Reserve	<\$ 2,720.00>

BACKGROUND:

This amendment request was previously submitted to the Board at its December 11th 2008 meeting, however was mislabeled as the first contract amendment. The Board approved the first contract amendment at its October 9th 2008 meeting to extend the contract performance date.

The intent of the proposed Kapilimao Tank is to “float” with the existing storage tanks in Kekaha at the Paua Valley Tanks. The consultant utilized the bench mark elevation at the Kapilimao Well site in its design of the tank, however the Department would like to verify that the elevation used matches the existing Paua Valley Tanks to avoid the situation there the existing tanks do not match the proposed Kapilimao Tank.

Additionally, the Department has consolidated Job No. 03-03, Hardening of Generator Shelters at the Kapilimao Well Site with Job No. 05-03, WK-25, Kapilimao 0.5 Million Gallon Tank. The generator housing project was prepared under a contract with Kodani and Associates and has since closed. Therefore, Brown and Caldwell has agreed to compensate Kodani for the necessary review and

modifications to the construction specifications and drawings and for as-needed construction support and consultation required by combining the projects with a contract amendment with the Board.

Mr. Nishimura moved to approve the second contract amendment with Brown and Caldwell, seconded by Mr. Costa; 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 for the Kauai Water Department

Chair Kahawai reported that the Board at its December 11, 2008 Board Meeting directed staff to followup and submit an advertisement for open recruitment for the vacant Manager's position.

Human Resources Coordinator Debra Togioka is coordinating the open recruitment and submitted the attached final ad for advertising in the Sunday, December 28, 2008 issues of the Honolulu Advertiser, The Garden Island, the Maui News, the West Hawai'i Today and Hawaii Tribune-Herald newspapers. The recruitment closing date will be on Friday, February 6, 2009.

Thereafter, she will gather the résumés and the Board can schedule to meet to review the applications and set the interviews.

Mr. Nishimura moved to receive and place on file, seconded by Mr. Costa; motion was carried.

Re: Board Discussion on Setting their 2009 Goals

As part of the Job Performance Evaluation process for Acting Manager Wynne Ushigome, the Board requested that this matter be on this Board Meeting Agenda to begin discussion on the Board's goals for 2009. Once the Board's goals are finalized, it will be communicated to Acting Manager Ushigome to ensure clarity by both her and the Board.

Mr. Nishimura requested that for the benefit of the Manager, the Board's goals should be finalized by the end of this month.

Mr. Nishimura moved to receive the report and setup a Special Meeting to establish the goals not later than the end of February, 2009, seconded by Mr. Costa; motion was carried. (Special Board Meeting was later set as Wednesday, January 28, 2009.)

Human Resource Coordinator Debra Togioka was present at the meeting at about 11:08 a.m. Mr. D. Fujimoto was also present at the meeting at about 11:10 a.m.

NEW BUSINESS:

Re: Request by Board to Discuss the DOW's Hiring of the Waterworks Legal Advisor

Board Member Nishimura:

Board Member Nishimura reported that to seek more information about the current status of the Waterworks Legal Advisor Position, the following Board and staff met with the Department of Personnel Services (DPS) on December 23, 2008. From DOW: Roy Oyama, Randall Nishimura, Wynne Ushigome and Debra Togioka. From DPS: Malcolm Fernandes, Karen Matsumoto and Erin Doo.

The primary reason that DPS is requiring the Waterworks Legal Advisor position to be civil service instead of a contract position relates to the personnel description for the Waterworks Legal Advisor. Therefore, staff will be looking at modifying the description to maintain the exempt status of the position.

DPS has indicated that they are willing to extend the current 3-month contract as long as we make continuous progress with this matter. Chair Oyama and Mr. Nishimura, with the concurrence of Chair-Elect Kahawai, requested that this be placed on the January 8, 2009 Board Meeting Agenda in order to address this situation.

A DPS representative was suppose to be at the January 8, 2008 Board Meeting to further brief the Board; however, no one was available.

Acting Manager Ushigome:

Acting Manager Ushigome reported that to help understand the background and history of the Department's Legal Advisor position, the following was offered:

In the recent past, the Legal Advisor was hired on an annual contract basis. This past November, the Department was informed by the County Department of Personnel Services (DPS) that their review of the Legal Advisor's contract position concluded that this position should be a civil service position under HRS 76, Civil Service Law. With that determination, DPS extended the Legal Advisor personal services contract for 3 months and instructed the Department to post a notice to advertise the position in accordance with the civil service requirements. Which we did, in fact the deadline to submit applications and resumès from qualified candidates has passed; however, former Board Chair Oyama submitted a letter to DPS requesting that no further action be taken on recruiting and selecting the Department's Legal Advisor.

One of the main concerns expressed by Board members was the fact that they felt that the Manager and Chief Engineer should retain the ability to hire the Department's Legal Advisor. Board members felt the Legal Advisor position, similar to the Manager's secretary are key positions within the Department, therefore, these positions should be hired at the discretion of the Manager.

That being said, the benefit of having an experienced, qualified civil service staff is that these individuals provide the continuity of service and consistency within the organization. The appointed department heads and deputies will come and go; however, it is the civil service staff that will retain the working knowledge, policies, and practices which is vital to any government agency.

To back up a bit, and explain how this position evolved, this is my understanding and recollection:

- Initially, the Department funded a half-time Deputy County Attorney position. In the end, this arrangement proved problematic since this attorney had two bosses to report to and take assignments from. Being that the attorney was a “direct” hire to the County Attorney, the Department of Water’s assignments were given less priority and over the course of time, different attorneys were assigned to the Department to replace the DOW assigned attorney, especially if the caseload of the County Attorney’s Office got too heavy.
- Subsequently, the Department hired an attorney on a “half-time” contract. The half-time nature of this personal services contract was deemed “special and unique”; therefore, the position was not covered under the civil service law. Under HRS 76-77(7), an exemption from civil service is allowed for “positions filled by persons employed contract where the personnel director has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures; provided that no contract pursuant to this paragraph shall be for any period exceeding one year;”
- Due to the work load, overtime, the half-time legal advisor position became a three-quarter time position and finally full-time. With the position now being full-time, DPS is contending normal civil service recruitment procedure should apply.

The basis of the DPS determination was made after reviewing the civil service law as stated in HRS 76-77, essentially, DPS concluded none of the exemptions were applicable to the Legal Advisor’s duties as described in the position description. In addition, during the last budget cycle, the Kaua’i Police Department requested a Legal Advisor position which DPS has classified as a civil service position.

I am continuing to work with DPS and the Administration to resolve this matter.

EXECUTIVE SESSION:

J1. ES-2008-20 (1-8-09) Pursuant to Haw. Rev. Stat §§92-4 and 92-5(a)(2), 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 the Department's hiring of the Waterworks Legal Advisor 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.

Mr. Nishimura moved to go into Executive Session at about 11:15 a.m. to discuss the above agenda item, J1, ES-2008-20 as posted, which was formally noticed under Executive Session, seconded by Mr. Costa.

There was no Board discussion and no public testimony. Motion was carried. Staff was excused from the meeting.

The Regular Meeting was called back to order at 11:50 a.m. Recess: 11:50 am to 12 noon.

Mr. Nishimura moved to receive the report and have a new agenda item for next Board Meeting to consider other alternatives to hiring a legal advisor in light of DPS' recommendation, and a formal invitation to DPS to be sent for them to appear at the next Board Meeting, seconded by Mr. D. Fujimoto; motion was carried.

Re: Request to Testify by Donn Carswell on His Complaint of Notice of Water Outage

Acting Manager Ushigome reported that Mr. Carswell wanted to notify the Board of his complaint but did not want to appear at this Board Meeting.

She also reported that the Department diligently tries to notify our customers, especially our commercial customers, prior to a scheduled water shut down. In this incident on Saturday, December 7, 2008, this work was considered an emergency callout and not a scheduled shutdown. Operations personnel received a call from Police dispatch for a mainline break within the King Auto Center property.

As we tried to locate the appropriate mainline valves to isolate the break, it became evident that the entire length of Kukui Grove Street would be affected by turning off the valves on Haleko Road and Kukui Grove Street. To minimize the number of customers affected, the Department decided to start the repairs early Sunday morning. At around 5 pm on Saturday, Operations personnel began notifying customers in the area of the interruption of service on Sunday morning.

The Department apologizes for the short notice and empathizes with our customers affected by the water outage; however, this was not a scheduled event where crews typically provide a 24-hour notice prior to a shut down.

Part II, Section III of the Department of Water's Rules and Regulations state, "The Department will exercise reasonable diligence and care to deliver an adequate supply of water to the consumer and to avoid shortages or interruptions in water service, but will not be liable for any interruption, shortage, insufficiency of supply, or any loss or damage occasioned thereby."

"The Department reserves the right at any time and all times to shut off water from the main without notice for the purpose of making repairs, extensions, alterations, or for other reasons. Consumers depending upon a continuous supply of water shall provide emergency water storage and any check valves or other devices necessary for the protection of plumbing or fixtures against failure of the pressure or supply of water in the Department's mains. Repair or improvements will be prosecuted as rapidly as practicable and, insofar as practicable, at such times as will cause the least inconvenience to the consumer."

As stated, in the case of a scheduled shut down, the Department notifies our customers at least 24-hours prior to commencing the work. The notices are usually hand-carried to the affected customers, both residential and commercial. (See attached template of the DOW's Interruption of Water Service Notice form.)

Although the Department appreciates the suggestion of activating an emergency list of key personnel for each commercial account in a waterline break incident, the Department would not be able to guarantee proper notification and maintenance of an updated emergency call out list with key phone numbers for all our commercial customers.

In light of the situation that transpired on December 6 and 7, 2008, the crews did notify the offices that were likely to be impacted by the shutdown of water. The Department of Water wants to reassure Mr. Carswell and the Board that we try to coordinate and if possible, reasonably accommodate any interruption of service with the affected parties.

Mr. Nishimura moved to receive this report and place on file, seconded by Mr. Costa; motion was carried.

Re: Manager's Top 4 Goals for the Kaua'i Department of Water for 2009

Recommendation: Not Applicable

Project Funding: Not Applicable

Background:

Manager's Top 4 Goals for the Year 2009:

These are my thoughts based on the comments received from the Board during their assessment of my performance evaluation. I continue to welcome any suggestions or recommendations from the Board.

As stated by the Board, this is my understanding of the Board's priorities for the Manager.

1. Complete customer service survey
2. Include in monthly report steps and progress of improvements (planning and organizing criteria)
3. Separate operational budget into an accrual based accounting format
4. Improve internal controls, resolve problems, and follow up with enforcement.

I will work with staff to develop timelines and plan schedules to complete these goals as outlined by the Board.

Customer Service Survey

The last customer service survey for the Department was completed in 2005 through an RFP procurement. The survey assessed the Department's existing public relations programs, including interviewing staff, reviewing customer complaint process, press releases, staffing, formal and informal procedures, outreach activities, media relations and any other public relations practices of the Department.

Internal interviews included various members of the Board, Department division heads and employees.

External interviewees included customers (residential, commercial, industrial, agricultural, and government), Department heads of other agencies, government agencies, and interest groups (community and business). Developers, major landowners, Kaua'i County administration and elected officials, State administration and elected officials were included on a selective basis.

Monthly Progress Report

Starting with the January 2009 Manager's Monthly Update report, I will start by identifying the list of upcoming projects and report of the progress of improvements.

The status of the on-going projects will continue to be updated on the quarterly reports entitled, "Kauai County Briefing on Departmental Projects."

Accrual Based Accounting Format

I will work with the Fiscal staff and follow up with our financial consultants on the necessary steps to separate the operational budget into an accrual based accounting format. We will report on the status and develop a timetable for converting the financial statements.

Improve Internal Controls, Resolve Problems and Follow-up with Enforcement

This item is work in progress; however, realistically.....it is easier said than done. As stated to the Board, handling both administrative positions for several years has been taxing; however, as Manager it is my responsibility and I continue to work on this item. There are no excuses on my part.

I will report on any changes in the current practices and consultations with the Unions when formulating and implementing personnel policies, practices and matter affecting working conditions.

Mr. Costa moved to receive this report and place on file, seconded by Mr. Nishimura; motion was carried.

Re: Request Board Approval to Implement Board Policy No. 21, a Department of Water's Identity Theft Prevention Program

Background: n/a

Recommendation:

The Department recommended Board approval of the Identity Theft Prevention Program to be in compliance with the new Federal Trade Commission's "Red Flag" Requirements for Municipal Utilities. Attached for the Board' review and approval is Board Policy No. 21, regarding the Identity Theft Prevention Program.

Background:

The Federal Trade Commission issued the "Red Flag Rules" on November 9, 2007 requiring financial institutions and creditors that hold consumer accounts to develop and implement a written Identity Theft Prevention Program. The program must provide for identification, detection and response to patterns, practices or specific activities that could indicate identity theft. The regulations also require financial institutions and creditors to develop reasonable policies to verify the identity of a consumer when a notice of address discrepancy is received from a consumer reporting agency. The "Red Flag" Rules and Address Discrepancy Rules implement Sections 114 and 115 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003. Compliance with the rules was extended from November 1, 2008 to May 1, 2009.

The "Red Flag" rules apply to the Department of Water because it applies to "creditors" with "covered accounts." The term "creditor" is defined in the rules as any entity that regularly extends, renews or continues credit. Government entities such as the Water Department which defers payment for water services are considered creditors. Also the term "covered accounts" is defined to include utility accounts.

Pursuant to the Rules, the Department must implement a written Identity Theft Prevention Program to detect, prevent and mitigate identity theft in connection with the opening of new accounts and maintenance of existing accounts. The Program must contain the following elements:

1. Procedure for identification of relevant red flags;
 2. Procedure to detect red flags;
 3. Appropriate responses to red flags;
 4. Periodic updating of the program to reflect changes in risks to customers;
- and

5. Annual report to the governing body or senior management regarding the effectiveness of the program and compliance with regulatory requirements.

The Rules also require that the Water Department provide for the continued administration and oversight of the program which includes the following:

1. Obtain approval of the initial written program by the Board;
2. Involve the Board or a designated employee at the senior management level in the department in the development, implementation, administration and oversight of the program;
3. Train staff as necessary to effectively implement the program; and
4. Exercise appropriate and effective oversight of service provider arrangements

Mr. Costa moved to approve Board Policy No. 21, seconded by Mr. D. Fujimoto.

On query by Mr. Nishimura, Waterworks Controller Ganaden stated that it would be up to the Manager to assign a designated employee to oversee this program.

On query by Mr. Nishimura, Waterworks Legal Advisor Esaki stated that this is an internal policy that does not need a public hearing.

Motion was carried.

Re: Conveyance of Water Facility from Bruce Albert Smalling and Suzi Cox-Smalling, for the Water Meter Plan Servicing Lot 1, TMK: (4) 4-6-32:015, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Bruce Albert Smalling and Suzi Cox-Smalling, 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 Water Meter Plan Servicing Lot 1, TMK: (4) 4-6-32:015, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Nishimura moved to approve the Conveyance of Water Facility document from Bruce Albert Smalling and Suzi Cox-Smalling, seconded by Mr. Costa; motion was carried.

Re: Conveyance of Water Facility from Sterling Carter Kealohanui Correia, Trustee of the Sterling Carter Kealohanui Correia Revocable Trust dated December 23, 2002, for the 5/8" domestic Service Connection for TMK: (4) 4-4-05:015, Kapaa, Kawaihau District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Sterling Carter Kealohanui Correia, Trustee of the Sterling Carter

Kealohanui Correia Revocable Trust dated December 23, 2002, 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 5/8" domestic Service Connection for TMK: (4) 4-4-05:015, Kapaa, Kawaihau District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Nishimura moved to approve the Conveyance of Water Facility document from Sterling Carter Kealohanui Correia, seconded by Mr. Costa; motion was carried.

Re: Appointment of Finance and Rules Committees

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

Finance Committee

Randall Nishimura, Chair

All Board Members

Rules Committee

Dee Crowell, Chair

All Board Members

Mr. Costa moved to approve the slate of officers for the Committee Meetings, seconded by Mr. D. Fujimoto; motion was carried.

REPORTS

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

Waterworks Controller Ganaden reported that on our Capital Projects, the Department awarded 6 construction contracts totaling \$14.8 million. \$11.4 million dollars of that total is funded by the State Revolving Fund (SRF).

Mr. Costa moved to receive the Statement of Kaua'i County Water Department's Revenues and Expenditures report and placed on file, seconded by Mr. Nishimura; motion was carried.

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

Public Relations Specialist Faith Shiramizu gave the following report:

DWSRF Projects: Updated the Priority List as requested by the State Drinking Water State Revolving fund (DWSRF) and submitted four new projects to be added to the FY2009-10 Priority List.

Employee Council: The Employee Council held its annual Holly Jolly Celebration that included the song, wreath and ornament contests.

Fun Committee: A gingerbread house kit was left in the break room of Operations and Admin for staff to construct and decorate. It was voluntary for the enjoyment of employees to bond during their breaks. Photos can be seen in the December 2008, "As the Water Flows" newsletter. There are many creative employees at the DOW!

McGruff: Attended a Quarterly McGruff Coalition Meeting in Kona. We will be hosting the meeting scheduled for March 13, 2009.

Blackboard Connect CTY: Training was held for Blackboard Connect CTY, a new service to the County originating from the Kaua'i Civil Defense Agency. This service will allow messages to be sent out to hundreds of people in an instant. There will be more hands-on training in 2009.

Press Release: Press Release to notify customers of the planned rate increase for January 2009 was sent out. Note that there was an inadvertent error in the press release as there is no other service charge increase planned for 2009 as part of the 5-year scheduled rate increases that started in 2006 and ends in 2010. The last scheduled service charge increase was in January 1, 2008. See attached.

Photo op was organized to promote WP2020 Projects completed and in progress. Dennis Fujimoto from The Garden Island prepared an article covering the Kapa'a Homesteads Tank groundbreaking and included all the information provided to him as well as information that he gathered from Dustin at the photo site and the DOW website. This article was in The Garden Island December 31, 2008 issue. See attached. A press release will be sent out in early January 2009, to the other media covering this information. Thanks to Dustin for assisting with the details for the groundbreaking photo op.

Mr. Nishimura moved to receive the Public Relations Update and placed on file, seconded by Mr. Costa; motion was carried.

Re: Manager's Update for December, 2008 to January, 2009

Acting Manager Ushigome reported on the following:

CONTRACTS AWARDED BY THE MANAGER: None.

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

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

Affordable Housing Update:

Affordable Housing Task Force (AHTF) meeting was held on Monday, November 10, 2008 at Pi'ikoi Conference Room A.

Updates on AHTF Projects:

1. DHHL – Anahola Residence Lots Unit 6, “Pi’ilani o Kekai, Phase 1: No report by DHHL.
2. Habitat - Eleele I Luna Subdivision Phase 2 Project includes 106 lots and one park. No report.
3. Puhi Self-Help Subdivision – Housing Task Force deleted this project from the AHTF agenda.
4. Kauai Lagoons – Courtyard at Waipouli: No report.
5. Kauai Lagoons – Kapule Project - The 31-unit affordable housing project’s building permits were approved by DOW on October 10, 2008. DPW has not issued the grading permit to date. Building permits are currently being processed at KFD.
6. Kukui’ula Employee Housing - “Gap” Housing subdivision and zoning permit: Amended water Master Plan was returned to the developer for revisions. The developer met with DOW and said that they will be resubmitting the amended Water Master Plan shortly. The developer has not resubmitted the revised WMP to DOW to date. According to the Housing Agency, Kukui’ula will be requesting the Water Board waive several DOW requirements that is included in the WMP.
7. Koheha Loa (Hanamaulu Triangle) - DOW completed its review of the May 15, 2008 draft WMP for the Grove Farm former “Amfac/JMB Lihue Hanamaulu Master Planned Community Lands. DOW’s comments were transmitted to Kodani & Associates on August 26, 2008 and the Department’s staff met with Grove Farm and their consultant’s on August 27, 2008. Grove Farm is currently addressing the DOW’s comments and is working to address several other outstanding items. DOW has not received the resubmitted WMP to date.
8. Paanau Village, Phase 2 - The Housing Agency will be contacting Public Works to require the subdivider to revise the subdivision map to include an “at grade” access provision on the subdivision map.

Next meeting of the AHTF is scheduled for Monday, January 12, 2009, at the Pi’ikoi Conference Room A at 10:00AM-11AM.

Upcoming WP2020 Projects:

As part of the County of Kaua’i’s Economic Stimulus Package, the Department submitted the following projects for funding consideration. At the time these projects were compiled, the primary criteria was that the projects needed to be “ready to go” in 90-120 days after award.

Kilauea School 12-inch Waterline Extension for Fire Protection **\$700,000**
 The proposed water transmission facilities will provide the necessary fire protection needed by the State Department of Education’s Kilauea

Elementary School for the safety of its students and staff. The existing transmission facilities do not provide the required 2,000 gallons per minute (gpm) fire flow. The work includes the installation of approximately 1,000 feet of 12-inch ductile iron waterline, beginning at the existing 12-inch waterline along Kuhio Highway and continuing through Pukalani Place and extending along Kolo Road to Kīlauea School.

Līhu‘e Town Water Main Replacement

\$3,500,000

The project will replace aging pipelines to improve reliability of the water service and fire protection, and ensure good water quality for the Līhu‘e town area. The project will upgrade the waterlines along various streets in the area which frequently experience main breaks. The proposed project consists of furnishing and installing materials for the installation of approximately 5,000 feet of pipeline and appurtenances (new valves, fire hydrants, service laterals, meter boxes, and cleanouts).

Waimea Canyon Drive Waterline Replacement

\$3,000,000

The proposed water transmission facilities will upgrade the service to the Waimea Canyon School providing the necessary fire protection needed for the safety of its students and staff. The existing waterline cannot provide the 2,000 gallons per minute (gpm) fire flow required by the Water System Standard adopted in 2002. The design of the project is completed and scheduled for bidding in early 2009. The work includes the installation of about 2,000 feet of 12-inch waterline along Kaumuali‘i Highway and Waimea Canyon Drive. Construction costs are anticipated to be high due to the limited work hour restrictions imposed to mitigate traffic impacts within the State Highways.

Waimea Town Water Main Replacement

\$3,000,000

The project will replace aging pipelines to reduce main breaks, improve reliability of the water service and fire protection, and ensure good water quality for the Waimea Water System. The project will upgrade the waterlines along various roadways in the area which frequently experience main breaks. The proposed project consists of furnishing and installing materials for the installation of approximately 6,300 feet of pipeline and appurtenances (new valves, fire hydrants, service laterals, meter boxes, and cleanouts).

Kaehulua and Apopo Roads Water Main Replacement, Phase II

\$3,000,000

The project will upgrade existing waterlines in the Kawaihau District of the Wailua-Kapa‘a water system. The work includes the installation of pipeline, valves, fire hydrants, service laterals, meter boxes, and cleanouts.

Watershed Protection – Habitat Protection

\$510,000

The value and service of the watershed is commonly taken for granted. Forested watersheds provide for water recharge, supplying nearly all the fresh water on the island. The greatest current threat to the native forest and watershed on the Island of Kaua‘i is a combination of the destructive

effects of non-native animals and plants. Non-native animals damage the watershed structure, introduce disease, and open the way via groundcover disturbance for invasive plant species. In April 2003, State and private landowners partnered together to develop a long-term protection and management plan for Kaua'i's upper watershed areas. Funding will support the watershed management programs and activities.

On query by Mr. Nishimura, Mr. K. Fujimoto stated that they already have a couple of these projects under a construction management contract. One of the projects is the Lihue Town project that will have night work. The other project is the Waimea project.

On query by Mr. Nishimura, Acting Manager Ushigome stated that the Department would do our annual professional services solicitation process to hire the construction management companies.

On query by Chair Kahawai, Mr. Ganaden stated that Kilauea School, Watershed Protection, and the Lihue Town projects are not budgeted yet.

Acting Manager Ushigome stated that she is not sure how we would be getting the monies, whether through SRF funding or through grants. The criteria were to submit projects that were ready to go and not whether the projects were budgeted or not.

Water Agency Response Network (WARN):

On December 8th, the lab staff and I attended a Department of Health quarterly meeting on O'ahu. The day-long meeting involved concurrent sessions which included a discussion on establishing a mutual aid and assistance agreements among the County Water agencies.

The purpose or intent of establishing intra-state mutual aid and assistance agreements is to provide expedited access of resources needed to respond and recover from natural and malevolent events. These unexpected events may disrupt the water and wastewater utilities. Initially, the (4) County Water agencies will be developing an agreement which will allow the utilities to share equipment, personnel, and other resources during a crisis. Eventually, the private water purveyors and wastewater agencies will be included in the network.

Honolulu Board of Water Supply is taking the lead with their legal staff to draft a simplified version of the standard WARN agreement. In addition to the mutual aid agreement, the agencies will need to compile an inventory of equipment and tools available within each organization.

DOW Response to December Storm:

The heavy rains and excessive runoff experienced between December 5th through the 7th, undermined the ground beneath waterlines in Hanapepe and Waimea Valleys causing these pipelines become exposed. The most severe damage occurred along Menhune Road in Waimea Valley where the storm damaged the road shoulder and embankment exposing about 50 feet of the pipeline. This section of the pipeline was

left suspended by the flood waters. The Department's staff inspected the waterline and determined if left unsupported the pipeline would fail.

Due to the urgency of protecting and stabilizing the exposed section of the waterline, the Department procured the services of a local licensed contractor, who was doing clean-up and roadway repair work in the valley. The repair was done timely with the Department's inspector on-site. The reconstruction of the roadway shoulder and the stabilization of the exposed 12" DI mainline were completed under an emergency procurement contract. The cost of the repair work was about \$22K, subsequently, DPW agreed to split the repair costs "50/50" with the Department.

In addition, the storm runoff eroded the access roads leading to our Kekaha well and tank sites. The Department has contacted the State Agricultural Development Corp (ADC) and Public Works for assistance is regarding the access roads.

Administrative Review of All Vacant Positions

The Department has received written notice from the County Finance Director that as a result of significant pressures in the economy, the County is conducting a review of all vacant positions.

The County Department of Personnel Services will be identifying all current vacant positions and will evaluate each vacancy individually to determine if a vacancy should be filled. Priority will be given to positions that involve public health and safety, in particular those mandated by federal and state agencies.

In addition, the County is also analyzing the implementation of other cost saving measures that may include but are not limited to reducing travel expenditures, vehicle usage and energy consumption.

Mr. Nishimura moved to receive the Manager's Update and place on file, seconded by Mr. Costa; motion was carried.

Re: DOW Quarterly Projects Briefing

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

Mr. Costa moved to approve the Projects Briefing Report, seconded by Mr. Nishimura; motion was carried.

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

Mr. Nishimura moved to receive and place on file, seconded by Mr. Costa; motion was carried.

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

No report.

Re: Report of the Sub-Committee of the Whole Committee of the Kaua'i County Board of Water Supply

Mr. Nishimura moved to receive and place on file, 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

Acting Manager Ushigome reported on the following:

Updates of Strategic Goals and Implementation Status Report from the Issues Champion:

Re: Report from Issue Champions

Issue No. 1, Morale:

- a. Fun Committee will be meeting in mid January to plot out 2009 activities.
- b. Rewards Committee will meet to evaluate the WATER Bucks program.
- c. Fourth Quarter WATER Bucks were awarded to the following employees:
1) Margie Loo for assisting at a moment's notice in gathering necessary bid documents so they could be mailed out in a timely manner. 2) Bekki Malapit, for preparing and processing final subdivision reports that need to be done ASAP. Bekki assisted in this manner on more than one occasion in one month. 3) *Congratulations to Stanley Sarmiento, Employee of the 4th Quarter!* Stanley was recognized for doing an outstanding job of repairing a waterline break when it wasn't in his line of duty. Also to be commended is his crew, Peter, Serf and Clyde, for their quick response in getting the job done.
- d. Facilities Plan Committee will be formed while awaiting the Professional Services List.

Issue No. 2, Strong and Qualified Workforce:

- a. Recruitment
 - 1) Auto Mechanic II: Start date scheduled for Friday, January 16, 2009.
 - 2) Civil Engineer I (Special Projects Division): D.O.W. is awaiting the pre-employment exam results from DPS; start date will then be scheduled.
 - 3) Engineering Drafting Technician III: Posted at a range on Continuous Recruitment. Currently, no names on eligible list.
 - 4) Water Meter Mechanic: Interviews are scheduled for Friday, January 9, 2009.

- 5) Waterworks Inspector Aid: Department of Personnel Services has reviewed & approved the creation of this new classification.
 - 6) Waterworks Inspector: Department of Personnel Services to conduct written examination on January 5, 2009.
- b. Training
- 1) National Rural Water Association (NRWA) will be holding 9 days of Ops Certification Training Classes on site (in D.O.W. Board Room) throughout the year 2009.
 - 2) Ray Ohta of Pacific Training is scheduled to return to the Department of Water & facilitate a follow-up meeting with the Operations Division in the latter part of January 2009 on Employee Development Training.
 - 3) There was a request to have the Manager or Board talk to the Mayor to assist with speeding up the process on DOW personnel requests.

Issue No. 3, Water Quality:

- a. Sample site work order for Kuamoo Rd. submitted in September, but no work yet.
- b. New sites chosen for routine sampling to replace sites that were hard to access or have been removed
- c. Main break monitoring on hold, pending finalizing procedures and followup between both the Lab and Operations
- d. New Issue #3 champion or co-champion should be from Operations.

Issue No. 4, Workplace Efficiencies:

- a. Jeff Mendez continues to work to broaden our information base for our Geographic Information System

Issue No. 5, Accountability: Cell phone policy implementation pending.

At the last Issue Champions meeting, it was suggested that the opportunity to participate as an Issue Champion should be shared with other employees for renewed energy. It was also suggested to have each division head look for volunteers from their division and if none, they should designate a minimum of one person to serve as an issue champion. Each division needs to be represented.

Affordable Housing:

An updated Affordable Housing Projects – Summary Status prepared by Mark Salmon with RW Beck is attached for your review. This memorandum is a summary of progress on the Affordable Housing Projects for your reference. Please see the attached progress report for each project.

This memorandum is a final summary of the status of the six Affordable Housing Projects.

Akulikuli Tunnel Renovation

Summary

This project is currently in final design, the EA is being prepared, and certain environmental permitting is being pursued. Progress on the project is being affected by a number of issues, each of which is addressed below:

- 1) Tunnel Lining – the SSFM and its geotechnical subconsultant, Masa Fujioka and Associates, have gone back and forth with regard to the shotcrete lining vs. open cut/cast-in-place lining methods. Initially they recommended shotcrete (see Preliminary Engineering Report (PER)). Subsequently, due to Department preference, the method was changed to open-cut/cast-in-place. The geotech sub recently (November '08) voiced some concern about the effect of open cutting and backfilling on tunnel hydrology. This is not a new concern (see memos and emails from me), but was not characterized by the geotech consultant as worrisome until recently. I have directed SSFM to produce a memorandum for the Department explaining this issue and making a recommendation regarding which way to proceed. This issue is currently unresolved.
- 2) Wetlands – the project has been changed in a number of ways to minimize the effect on wetlands in the project area. The first change was to route the access roadway more northerly and westerly than the route shown in the PER to avoid the wetlands. That change eliminated any permanent impact to the wetlands expected at that time. Since, the project was changed to add a new portal at the end of Tunnel Segment “C”. Extending the access road to that location looks like it will require roadway embankment fill in a small portion of the wetlands. This permanent encroachment will likely have to be mitigated by creating new wetlands of approximately twice the area of those disturbed. With luck, the mitigation area can be created by expanding the existing wetlands inside the Forest Reserve. This issue cannot be resolved until the wetlands delineation is final and precise mitigation requirements determined. The Department may have to choose between vehicle access to Portal C and wetlands mitigation. Note that Amendment No. 1 includes costs to include Portal C and the extended access road in the EA and design. If these are eliminated, a modification (scope clarification and budget reduction) of that Amendment may be appropriate.
- 3) Routing the pipeline along existing Akulikuli Roads and Ahiahi Roads – The Preliminary Engineering Report included replacement of the existing pipeline from roughly the edge of the Forest Reserve to the Kahuna Road Bridge over Kapa'a Stream (call this Reach B). The stretch of pipe between Portal A and the edge of the Forest Reserve (call this Reach A) was not addressed. Easements exist through the Forest Reserve, private property, and along Kahuna Road for both Reaches A and B. The decision was made several months ago (see my memo dated May 21, 2008) to add replacement of Reach A to the EA and design and to follow the realigned access road, thereby avoiding wetlands impacts. The existing Reach A would be abandoned in

place. Reach B would follow the existing pipeline alignment across private property and along Kahuna Road.

Recently the suggestion was made to abandon the portion of Reach B that is on private property and instead follow Akulikuli and Ahiahi Roads. The ownership of the roads is not clear, and the County has stated that they do not believe there is County ROW associated with the roads. If there is no public ROW, the benefits of following that route are diminished. Title Guarantee Hawaii (TGH) gave me some legal descriptions (forwarded to KDOW and SSFM) of the land grants that appear to recognize that the roads existed when the land was originally granted. If that is the case, the roads may actually be owned by the State of Hawai'i. TGH suggested that the Department follow up with DLNR. SSFM is proceeding with design and the EA assuming the pipeline will not follow Akulikuli and Ahiahi Roads.

- 4) Water Quality Monitoring and Disinfection – the Department would like to monitor certain water quality parameters at Portal A (pH, temperature, turbidity and flow) and also potentially provide chlorine injection. See my memo of October 6, 2008. SSFM has been tasked with designing WQ monitoring equipment and determining how best to address the disinfection issue. SSFM needs a subconsultant (and contract amendment) to design the equipment and figure out the best disinfection option. Brown and Caldwell is likely to be their subconsultant, and is working on a scope and budget. An outline of the scope has been submitted to me, along with a list of questions. I am working to get the outline correct and the questions answered, but some followup from DOW will likely be necessary. It is not appropriate to design and install disinfection equipment at Portal A along with the tunnel renovations for two reasons: 1) the best alternative may be to disinfect at the tank, and it would probably be best to have the tank designer include such equipment in his work; and 2) if treatment at Portal A turns out to be necessary due to surface water influence, it would be easier to integrate disinfection with other treatment processes when they are designed.
- 5) Potential future water treatment – a year of water quality monitoring is planned following tunnel renovations and preceding connection of the supply to the distribution system. If the water is determined to be under the influence of surface water, treatment will be required. It may become apparent before the year of monitoring is up that the water is surface water, enabling an earlier decision on how to proceed.

Engineering Contract Status

NTP – September 11, 2007

Duration – 360 days

Expiration – September 5, 2008

Amendment No. 1 extends duration to 840 days, or December 29, 2009

Amendments

Amendment No. 1 was approved by the Board November 13, 2008. The scope, budget and completion time were revised to address all permitting, environmental documentation, and design for the changes made to the project configuration (road realignment, portal changes, tunnel lining changes) as described in my May 21, 2008 and August 13, 2008 memos. Right-of-way acquisition support, WQ monitoring and disinfection equipment design, wetlands mitigation/creation support and any realignment of Pipeline Reach B will be the subject of future amendments.

Budget

The budget (original contract + Amendment No. 1) is \$428,589. According to my records, \$154,303 (through November '08) has been invoiced, leaving \$274,286 (64%) to complete the current scope of work. Approximately 36% of the budget has been expended but no draft EA nor 30% design submittal has been produced. The configuration of the project has been in flux, but this bears watching.

Schedule

The most current schedule provided by SSFM is attached. I have updated the schedule using some actual and projected completion dates. That schedule is also attached. My update retains the tasks and many of the durations and relationships between tasks built into the original schedule. Due to the significant changes in the project configuration and the partial completion of some of the work, those relationships may no longer be correct. SSFM should update the schedule.

A big unknown with regard to the schedule is whether or not the water turns out to be under the influence of surface water. That cannot be determined until the renovation work is complete and a year of WQ monitoring takes place.

Permits

The scope includes application for all necessary permits. Applications for NPDES permits are in the contingency phase of the proposal and will require an explicit authorization from DOW to complete. It is possible that wetlands creation/mitigation may require some unforeseen permits.

Land and Easements

The Department will require easements from private landowners along the northerly and westerly edges of the project area for Pipeline Reach A. The Board was presented with an ROE agreement with these landowners at the August 14, 2008 Board meeting. Presumably it was approved. The original request was for an ROE lasting through March 16, 2009. It must be renewed/extended before then.

ROW will be needed from the same landowners. While the letter requesting ROE mentioned the potential need for an easement, no further contact has been made with the landowners.

If Pipeline Reach B stays on its current alignment, a temporary work area for construction will be needed. The existing easement should be sufficient for a

permanent easement. The landowner has not been approached about a temporary construction easement.

If Pipeline Reach B is realigned to follow Akulikuli and Ahiahi Roads, then easements will be needed from the owner(s). The owner is unknown – likely parties are the adjacent landowners or the State.

SSFM has been asked to engage the services of an appraiser and a surveyor for right-of-way acquisition support. They have submitted a change order proposal, but I have not yet drafted an amendment. Inclusion of effort to acquire a temporary construction easement following the current Reach B alignment was not included in the change order proposal submitted by SSFM, but it needs to be added.

Continuing consideration of alternative pipeline alignments could cause further change to ROW efforts.

Agency Coordination

The Corps of Engineers wetland delineation review and approval process has been a long-time hindrance to project progress. They have already caused several months of delay, and have recently delayed their field inspection until January '09. SSFM is keeping tabs on the Corps.

DOH will be the most important agency in the future. It is important to keep them informed of project plans and continually confirm that their expectations are being met. At least one year of water quality monitoring is planned after improvements are complete and the primary audience for this information is DOH. The purpose is to determine whether or not the water from the renovated tunnel is under the influence of surface water. Until that determination is made, the project cannot be connected to the public water supply.

Primary Consultant Contact Info

SSFM International
Allan Gartner
(808) 356-1247
agartner@ssfm.com

Kapahi Tank

Summary

The Kapahi Tank has suffered from siting issues for a long time. Without land from Mr. Gary Yamamoto, landowner immediately makai of the Ornellas Tank site, there is insufficient room build a round tank of the desired volume on the Ornellas site.

Mr. Yamamoto has resisted all negotiation efforts aimed at acquiring an easement. The Department has been reluctant to pursue eminent domain to acquire land from Mr. Yamamoto or to proceed with any tank configuration that could fit on the existing Ornellas site.

A potential alternative site has been identified mauka of the Ornellas Tank – the Porters Condominium site. A contract amendment to enable mapping of the site has been approved and executed. An additional amendment will likely be necessary to analyze the site for suitability as a tank site.

Engineering Contract Status

NTP – December 20, 2007 (Amendment No. 1)

Duration – 742 days

Expiration – December 31, 2009

Amendments

Consulting services for the Kapahi and Kapa'a Homesteads (Makaleha) Tanks have always been included in the same contract. The first contract with which I was involved was Amendment No. 1. At the start of Amendment No. 1, engineering work for the Makaleha Tank was essentially done. Only bid period and construction period support services for the Makaleha Tank were included in Amendment No.1.

Amendment No. 1 also includes all environmental, permitting, engineering, bid period support and construction period support for the Kapahi Tank.

Amendment No. 2 was prepared by the Department, and addressed adding a generator shelter to the Makaleha Tank.

Amendment No. 3, which was approved by the Board October 21, 2008 and executed November 26, 2008, adds to the work a topographic survey of the Porter's Condominium site.

Budget

The total budget for Amendments 1 through 3 is \$383,978. Of that amount, \$38,982 applies to the Makaleha Tank and \$344,996 to the Kapahi Tank.

I have not been involved with reviewing invoices for these projects for the entire duration of the contract, so I am unable to report on budget status.

Schedule

The most current schedule provided by Belt-Collins is attached. I have updated the schedule using some actual completion dates. That schedule is also attached. My update retains the tasks and many of the durations and relationships between tasks built into the original schedule. Due to the significant changes in the project configuration and the partial completion of some of the work, those relationships may no longer be correct. Belt-Collins should update the schedule.

Permits

The scope includes a CDUA and an NPDES NOI for construction water. An NPDES permit for hydrotesting is specifically excluded. Permitting has not really started yet, as the site has not been determined.

Land and Easements

The scope includes preparation of easement and parcel maps. This work has not yet started.

Agency Coordination

There have been no issues yet in this area.

Primary Consultant Contact Info

Belt-Collins Hawai'i
Cary Kondo
(808) 521-5361
ckondo@beltcollins.com

Makaleha Tank

Summary

The Makaleha Tank is currently under construction. The bid opening was May 29, 2008, a contract was awarded in early June, and the NTP issued September 2, 2008. Construction work was delayed for awhile after the NTP due to lack of a building permit, but that issue was resolved in mid-November.

Engineering Contract Status

NTP – December 20, 2007 (Amendment No. 1)
Duration – 742 days
Expiration – December 31, 2009

Amendments

Consulting services for the Kapahi and Kapa'a Homesteads (Makaleha) Tanks have always been included in the same contract. The first contract with which I was involved was Amendment No. 1. At the start of Amendment No. 1, engineering work for the Makaleha Tank was essentially done. Only bid period and construction period support services for the Makaleha Tank were included in Amendment No.1.

Amendment No. 2 included adding a generator shelter at the Makaleha Tank, and Amendment 3 applied only to the Kapahi Tank.

Budget

The total budget for Amendments 1 through 3 is \$383,978. Of that amount, \$38,982 applies to the Makaleha Tank and \$344,996 to the Kapahi Tank. I have not been involved with reviewing invoices for these projects for the entire duration of the contract, so I am unable to report on budget status.

Schedule

The construction contract duration is 360 days. The NTP was September 2, 2008, although DOW granted a time extension of 83 days due to delays in acquiring the County Building Permit. The current contract completion date is November 19, 2009.

Permits

To the best of my knowledge, all permits are in place.

Land and Easements: No issues.

Agency Coordination: No issues.

Primary Consultant Contact Info

Belt-Collins Hawai'i
Cary Kondo
(808) 521-5361
ckondo@beltcollins.com

AMFAC Shaft 11

Summary

Phase 1 of the AMFAC Shaft 11 renovation project began with developing a testing program and selecting a contractor to perform the field work. Amendment 1 to Phase 1 (called Phase 1B) was for actual conduct of the work in the field and included a variety of site cleanup activities and testing of the well for capacity and water quality. Phase 1B also included preparation of a variety of engineering reports necessary to guide final design and apply for permission from DOH to return the well to municipal service. The testing found potential evidence of surface water influence, although it was not possible to determine the source with certainty. The Department performed some supplemental testing (MPA), but that testing was inconclusive as well.

The draft report prepared by Brown and Caldwell (B&C) for submittal to DOH recommended completing several measures to exclude surface water from the shaft and clean and disinfect the well. The recommendations included another round of water quality testing following these rehab activities to see if signs of surface water persisted. If these measures were successful, it would strongly imply that earlier evidence of surface water contamination was due to the well's prolonged inactivity and deterioration, and not due to ongoing surface water influence from the nearby pond or other surface water source.

It seemed apparent that DOH would accept the cleanup and rehabilitation recommendations in the report and defer any decision regarding whether or not to allow the well to be returned to municipal service pending completion of the recommended activities and resubmission of the report. Therefore, it was decided to defer submittal of the draft report, complete the recommended actions, reexamine the water quality, and then revise the report and proceed accordingly. See my email to Keith Fujimoto and Doug Lee dated July 1, 2008, my email to Keith Fujimoto dated November 18, 2008, and Keith's subsequent email to Doug Lee of B&C dated November 25, 2008.

It is my understanding that B&C is currently preparing a proposal to design and construct improvements at the Shaft with the purpose of cleaning the well and excluding surface water.

Engineering Contract Status

NTP – January 7, 2008 (Amendment No. 1 (Phase 1B))

Original Contract Duration – 199 days

Original Contract Expiration – June 30, 2008

Amendment No. 3 extended duration to January 31, 2009

Amendments

Amendment No. 1 was the formal contract for Phase 1B. It included performing the field work outlined in the testing plan developed in the original contract (Phase 1A) and preparing reports on the results of the testing. Amendment No.2 added removal and disposal of some power lines and power poles in the vicinity of the Shaft.

Amendment No. 3 changed the completion time of Phase 1B to January 31, 2009. A proposal is currently being developed which will require an Amendment No. 4.

Budget

The total budget for Phase 1B amendments Nos. 1-3 is \$585,283. I only became involved with invoice review for the July-August '08 billing period, so I have incomplete knowledge of overall budget status.

Schedule

The schedule for Phase 1B originally contemplated completion in June '08. Contract execution delays, severe weather, and unexpected water quality results have resulted in time extensions until January 31, 2009. The recent decision to do additional well cleanup and rehab work prior to applying to DOH for return of the well to service will require time beyond January 31, 2009. An estimated schedule for upcoming work is not yet available.

The most current schedule provided by B&C is attached. I have updated the schedule using some actual completion dates. That schedule is also attached. My update retains the tasks and many of the durations and relationships between tasks built into the original schedule. Due to the significant changes in the project work and the partial completion of some of the work, those relationships may no longer be correct. B&C should update the schedule.

Permits: No issues.

Land and Easements: No issues.

Agency Coordination: No issues.

Primary Consultant Contact Info

Brown and Caldwell

Doug Lee

(808) 523-8499

dlee@brwncald.com

Kapilimao Tank

Summary

The Kapilimao Tank is currently in the construction stage, although some surveying work must be completed prior to actual construction to ensure that the project was designed using the correct datum. Brown and Caldwell has submitted a fee proposal for the surveying work, and my understanding is that a contract amendment was presented to the Board at the December 11, 2008 meeting. Construction drawing revisions may be required depending upon the outcome of the survey.

Engineering Contract Status

NTP – December 14, 2006

Original Contract Duration – 365 days

Original Contract Expiration – December 14, 2007

Amendment No. 1 changes expiration date to December 31, 2009

Amendments

Amendment No. 1 simply extended the contract until December 31, 2009.

Amendment No. 2, which was prepared by DOW, added the aforementioned datum verification and some work performed by Kodani & Associates regarding generator shelter hardening.

Budget

The original budget for this contract was \$303,436. Amendment No. 2 added \$10,853 for surveying and \$10,000 for the Kodani and Associates generator shelter work.

Schedule

I do not know the NTP date for the construction contract nor the specified duration.

Permits: No issues.

Land and Easements: No issues.

Agency Coordination: No issues.

Primary Consultant Contact Info

Brown and Caldwell

Doug Lee

(808) 523-8499

dlee@brwnncald.com

Kapa'a Homesteads Well No. 4

Summary

The engineering, environmental and permitting work for the well is planned to occur in phases. The first phase, the only phase currently under contract, is for locating,

preparing an EA and various other engineering reports, design and construction of a test well.

The Preliminary Hydrologic Field Investigation memo was submitted April 18, 2008, and the Well Site Selection Report was submitted July 30, 2008. On June 20, 2008, KDOW instructed HDR to proceed with the Ornellas Tank site.

As late as September 23, 2008 KDOW confirmed that HDR was to continue work on the design and EA for a well at the Ornellas site. Sometime between that date and October 29, 2008, KDOW instructed HDR to discontinue work until a site for the Kapahi Tank is chosen.

Engineering Contract Status

NTP – March 17, 2008

Original Contract Duration – 355 days

Original Contract Expiration – December 31, 2008

Amendments

There are no amendments yet, but a contract time extension will be required by the end of the year.

Budget

The budget for this phase of the work is \$352,424. I have not been involved in invoice review and do not know the current budget status.

Schedule

The original schedule for this phase prepared by HDR is attached. I have also attached a schedule wherein I have included some actual completion dates to assess progress. When a well site is selected and design work resumes, a new schedule should be obtained from HDR.

Permits: No issues.

Land and Easements: No issues.

Agency Coordination: No issues.

Primary Consultant Contact Info

HDR, Inc.

Lester Fukuda

(808) 524-3771

les.fukuda@hdrinc.com

Mr. Nishimura moved to accept RW Beck's final report, seconded by Mr. Costa; motion was carried.

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:

- a. Regular Meeting: Thursday, June 5, 2008, Part 1
- b. Regular Meeting: Tuesday, September 16, 2008
- c. Regular Meeting: Thursday, October 9, 2008
- d. Special Meeting: Tuesday, October 21, 2008
- e. Regular Meeting: Thursday, November 13, 2008 (*deferred*)

J2. ES-2008-18 (1-8-09) - Pursuant to Haw. Rev. Stat. Sections 92-4, 92-5(a)(3) and 92-5(a)(6), the purpose of this executive session is to consult with legal counsel and department staff regarding the land exchange for the 1940 DOW rectangular tank with the 1960's circular tank in Kalaheo, Kauai, Hawaii and consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

J3. ES-2008-7&19 (1-8-09) - Pursuant to Haw. Rev. Stat. Sections 92-4, 92-5(a)(3) and 92-5(a)(6), the purpose of this executive session is to consult with legal counsel and department staff regarding the acquisition of the Koloa 1.0 MG Water Tank site, Koloa, Kauai, Hawaii and consideration of the powers, duties, privileges, immunities and/or liabilities of the Board and the County as they relate to this agenda item.

Mr. Costa moved to go into Executive Session at about 12:22 p.m. to discuss the above 2 agenda items, J2 and J3 that were formally noticed under Executive Session, seconded by Mr. Nishimura; motion was carried. There was no Board discussion and no public testimony. Motion was carried. Staff was excused from the meeting. (Recess: 12:22 to 12:30 p.m.)

The Regular Meeting was called back to order at 12:53 p.m.

ADJOURNMENT: There being no further business, Mr. Costa moved to adjourn the meeting at 12:53 p.m.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome
Acting Manager and Chief Engineer

rm