

REGULAR MEETING MINUTES
BOARD OF WATER SUPPLY
Thursday, June 17, 2010

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Thursday, June 17, 2010. Chairperson Randall Nishimura called the meeting to order at 10:12 a.m. On roll call, the following answered present:

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

Absent & Excused: Mr. Donald Fujimoto

STAFF: Mr. David Craddick
Mr. Paul Ganaden
Mr. Gregg Fujikawa
Mr. Keith Fujimoto
Mr. Keith Aoki
DOW's Deputy County Attorney Andrea Suzuki
Deputy County Attorney Mona Clark

Absent & Excused: Mr. William Eddy
Ms. Faith Shiramizu
Board's Deputy County Attorney Amy Esaki

GUESTS: Mr. Shawn Smith, Falko Partners LLC
Ms. Doran Smith, Esq., Falko Partners LLC
Mr. Wayne Wada, Esaki Surveying & Mapping, Inc.
Mr. Léo Azambuja, The Garden Island newspaper

Quorum was achieved.

AGENDA:

Chair Nishimura noted it was requested to have Item H.3 – Manager's Report No. 10-85 come before Item G. – Old Business. As there were no objections, the Agenda was approved as modified.

MINUTES:

Mr. Crowell moved to receive the Regular Meeting Minutes of May 13, 2010, seconded by Mr. Oyama.

Chair Nishimura noted for the record that the Minutes may need to reflect a slight modification of the language on Page 19 that the action taken was to approve as per the recommendation of the Rules Committee, as stated on the first paragraph on Page 18 for the agenda item, Delegation of Board Authority Amendment to Rules

(Manager's Report No. 78). On Page 12 – Re-election of the Vice Chair, Mr. Crowell was elected by a unanimous vote.

Mr. Costa moved to approve the Minutes, as amended; seconded by Mr. Oyama; by a unanimous vote; motion was carried.

CORRESPONDENCE/ANNOUNCEMENTS:

Re: Letters to Senators Daniel K. Inouye and Daniel K. Akaka on the State of Hawaii Department of Health (DOH) Safe Drinking Water State Revolving Fund (DWSRF) Priority List

One letter each was sent to Senators Inouye and Akaka to explain the agreement with the Department of Health regarding the SRF funds as they relate to the bond float.

Mr. Costa moved to receive the DOW's letters to Senators Inouye and Akaka, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

BOARD COMMITTEE REPORTS

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

Chair Nishimura reported he recused himself from voting on this item.

Re: Claims Payable

Finance Chair Oyama reported that at the June 17, 2010 Finance Committee Meeting the Committee approved the Claims Payables for a total of \$1,835,402.13. Mr. Costa moved to receive the Claims Payable and place on file, seconded by Mr. Crowell; by a unanimous vote; motion was carried.

NEW BUSINESS

Re: Request Board Approval of a Private Water System from Falco Partners for Kahu'aina Subdivision, Kīlauea, Kaua'i (Manager's Report No. 10-85)

(Note: Falco Partners should be spelled Falko Partners).

As no County Attorneys were present at this time, in the interest of time and with the Board's permission, the Chair reverted back to Agenda Item G.1.

OLD BUSINESS

Re: Request Board Approval on the Following Amendments to the Rules And Regulations, Part 4, Fixing Rates for the Furnishing of Water Service in the County of Kaua'i (Manager's Rep. No. 10-16)

- a. Section I – General Use Rates (Proposed Block Changes)
- b. Section II – Bulk Rates (Paragraph 1)

- c. Section III – Agriculture Rates (Addition of Backflow Preventer Requirement)
- d. Section IV – Shipping Rates (Paragraph 3)
- e. Section V – Private Fire Service Charges (usage based on area ratio)

RECOMMENDATION:

It was requested that the Board approve the Rule Amendments of the Board of Water Supply, County of Kaua'i.

BACKGROUND:

The Public Hearing for the Amendment of Rules and Water System Standards was held twice, on Thursday, January 28, 2010, and Thursday, April 15, 2010. There was no adverse testimony at both public hearings on these proposed rule amendments. Note that the public hearing notice was published in the Tuesday, December 29, 2009 issue of The Garden Island Newspaper and the Monday, March 15, 2010 issue of The Garden Island Newspaper, respectively; and we had previous concurrence from the SBRRB to move forward with these public hearings.

The Small Business Regulatory Review Board (SBRRB) confirmed their concurrence as there was no adverse testimony received on our proposed rule amendment at our Public Hearings, along with the proposed rule amendment in final form.

The secretary will follow up with the necessary signatures from the County Attorney and the County Clerk. Once the County Clerk signs the proposed rule amendment, it takes effect 10 days thereafter or in this case, the Rule states the effective date will be July 1, 2010.

DISCUSSION

Manager Craddick distributed a revised copy of the Amendments. Chair Nishimura explained that the language had been modified so people understood Paragraph 2, the Use Charges, so the ranges for the blocks were more clearly specified. The other change is a grammatical change to Section III – Agricultural Rates, #3 on Page 3, the word “and” should be stricken from the second sentence and a comma added. Chair Nishimura noted that because this is a rule change, he asked if the public had anything to say anything about the amendments. The record reflects there were no comments.

Mr. Oyama moved to approve the final rule amendments listed in the Agenda above, seconded by Mr. Costa.

Chair Nishimura commented that at the end of each year we would like to revisit the Block Rates to make sure that these Blocks are not too small, especially the 5/8”, 1st, 2nd and 3rd Blocks. Although we are “above the national average” we also have much larger median family sizes per household which may account for that increase in consumption and asked that the Department be mindful of that.

With no further discussion; by a unanimous vote; motion was carried.

Manager Craddick interjected that the rates take effect July 1, 2010 and bills will be prorated; only water used from July 1 will be affected and not previous months, so there may be split rates for the July bill.

NEW BUSINESS

Re: Request Board Approval of a Private Water System from Falko Partners for Kahu'aina Subdivision, Kīlauea, Kaua'i (Manager's Report No. 10-85)

Board approval of the Private Water System agreement was requested for a subdivision in Kilauea.

The main points of the agreement are as follows:

- New Lots in Phase II will receive all adequate water service (potable, non-potable and fire protection) from the private water system to be developed by applicant (hereinafter Kahu'aina Water System).
- No County water will be provided to New Lots for potable water or fire protection.
- Applicant will disconnect current meter on Lot 15 prior to commencement of construction for Kahu'aina Water System.
- Board is granting waiver of Water System Standards 2002, as amended, in the following ways:
 - Glass-fused steel tank instead of concrete tank
 - Booster pump system instead of building a tank at the appropriate elevation
 - Applicant will use existing wells / construct new wells
 - Licensed engineer in the State of Hawai'i must file a statement with the County certifying that Kahu'aina Water System has been designed, constructed and completed in accordance with the provisions of this Agreement before any building permits will be issued
 - Applicant will not transfer the Private Water System to the DOW unless the Kahu'aina Water System is upgraded to Water System Standards and full payment of DOW fees are paid by the New Lot owners.
 - New Lot Owners agree to:
 - Max density on New Lots limited to 70 dwelling units and one guest house on each New Lot.
 - Applicant will transfer the completed Kahu'aina Water System to a New Lot owner membership association, which will be responsible for maintenance and operation, which will comply with all rules and requirements of DOH and which will be subject to the terms of the Declaration of Conditions, Covenants and Restrictions of the Development which will include mandatory compliance with this agreement.
 - Restrictive Covenants will not be changed without prior approval of Water Board.
 - Final Subdivision Approval recommendation will be given once this Agreement is fully executed and the Applicant has satisfied the DOW's conditions for final subdivision approval

- Applicant will clearly letter the above conditions on all Kahu'aina Water System construction plans, final subdivision map, and deeds and will record the above Conditions as deed restrictions with the Bureau of Conveyances.
- Applicant is agreement to defend, indemnify, and hold harmless the Board from any claims or injuries that arise as a result of this agreement.
- If New Lot Owners fail to comply, the County has a right to refuse to grant permits or approvals for development.

DISCUSSION

The applicants appeared before the Board. Chair Nishimura indicated that the Department would make their recommendations and then he would allow the applicants to respond to the department's recommendations and proceed from there. This agreement was just received today. Out of necessity this may need to be opened up for public testimony.

Manager Craddick asked for approval of the Private Water System agreement for a subdivision in Kīlauea. There are number of points that were agreed on. However, there appears to be one point of disagreement in how the matter of a private water system is understood. If the agreement is simply a sham to get quick subdivision approval and there is no realistic understanding that private water systems are not desirable then we have a case of the applicant trying to have their cake and eat it, as is sometimes said. Manager Craddick decided to follow the previous Board approved agreements that say they will not be allowed to hook up to the system in the future as the previous agreements have stated. The developer seems to want to say they are providing a private system but want to continue to have the ability to hook up to the County system. The agreement already says if the entire system is brought up to standard they may receive service from the County system.

Language has been exchanged up to this morning - and there may be a draft with the attorney right now - but there does not appear to be time to resolve this matter. A letter was sent in August last year that outlines DOW Rules and Regulations and the agreement as it stands appears to the applicant to be waiving those rights. Manager Craddick was not aware of any cases where a system is brought up to standard and they are refused service but that appears to be the applicants' impression. The Department just does not want to allow individuals to come in and ask for service because they are next to an area and then the rest of the private system's viability to operate is slowly undermined.

The sticking issue is, are they doing a private water system or aren't they? They want to have the ability to tell someone else that wants to buy the subdivision that they can hook up to the County system or cancel this agreement altogether. Manager Craddick does not want to create a case that this is the norm for anyone trying to get subdivision approval from the County to say they are going to do a private water system and hustle it through and then hook up to the County system. There are valid reasons to speed this up because of the shoreline permit. To make it clear, if they want a private system, then they cannot hook up. That is what the Brydeswood and Opaekaa agreements say, and Manager Craddick could not see how it would be different for these applicants. The agreement states that the agreement would stand on its own feet, despite any changes in DOW staff. The agreement does say we can

refuse to hook the system up. Upon query from Chair Nishimura, Mr. Fujikawa confirmed that he supported Manager Craddick's position.

Mr. Shawn Smith introduced himself and his wife, Doran, attorney, who work for Larry Bowman, owner of Falko Partners, and also introduced Wayne Wada from Esaki Surveying. He noted the project has been through many steps with the Department of Water over the past five years because of the process. Mr. Smith respects the Department's position but he, or anyone buying one of the lots, wants to have the right, as citizens, to public water, should it be available. From a legal perspective he understands the DOW's position but feels there must be a way to protect the County and also protect the interests of someone who would want to step into his shoes. Nobody wants to build a private system, but they are willing to. They will bond the system. There has to be a way so the door is not closed. They are in a unique position, as there is no infrastructure and a moratorium out there on the north shore. He and Mr. Bowman do not think it is fair that they lose the right indefinitely. They are willing to build the private water system but want to maintain all their options.

Ms. Smith noted their intention is for it to come in as a whole, not piecemeal. If someone wants to upgrade the County system and opt back in, or suddenly there was water everywhere and lines and transmission were ready, they would just like to have that ability in the future. As the agreement reads, they waive their rights to do that. It seems to be a waiver of any right to public water in the future for the property. They appreciate everyone's hard work and do not want to put the County into a position to set a precedent they do not want to set or create County liability. It is a phased system and Phase II may take two years and another developer may have purchased the property by that time and maybe they would want to either upgrade the County system or upgrade the existing system.

Ms. Smith and Ms. Suzuki did explore some language that would address the system as a whole to alleviate the concern about each lot owner coming in separately. They took the language from a letter they received from the Department in August saying they could opt back in to the County system and they changed it so instead of applying to individual lot owners, it would apply to either the applicant as a whole or the Kahu'aina Water Association as a whole, for all of the service connections. This would stop individuals coming in piecemeal, undermining the private system and putting a strain on the public system. It was always their intention to come in as a whole, not individually. Chair Nishimura noted this language is not currently in the agreement and Ms. Smith concurred.

Chair Nishimura understood there were time constraints and if deferred to the July meeting, how it would change their timetable. If there is a need, a desire and ability to amend the agreement that is mutually agreeable by both parties, does the current agreement provide for that? Ms. Clark drew attention to Item G, Page 8 – Applicability.

Chair Nishimura asked Mr. Costa, as Planning Director, how this would affect their subdivision. If final subdivision approval is given based on this agreement and we want to modify it later, how would it be treated by the Planning Department? Mr. Costa would ask for guidance from the County Attorney but he thought the agreement provided for an amendment based on mutual agreement so the final

approval should not nullify that. Mr. Crowell noted the applicant shall comply with all agency requirements, which maybe an amended agreement, and it could still meet the requirements.

Mr. Smith noted they are 99% there. Chair Nishimura stated that right now, there is not an agreement between the Department and the applicant. Vice Chair Crowell inquired what the disagreement is and Chair Nishimura stated the applicant wants greater assurance that they can come back and apply for water. The applicant stated that the key word is “apply”, it doesn’t mean the Department would have to give it.

Upon query from Vice Chair Crowell, Manager Craddick stated that one concern of the Department is the issue of individual owners coming in. This siphons off individual customers of the private water system, then it becomes less viable for the remaining people that have to maintain the private water system, and at some point they may say they cannot do it anymore and then they would want the Water Department to take it over. The other issue is if there is this ability to waffle back and forth then what is to prevent everybody from doing this in the future as we move forward with all other subdivisions just to hustle them through. They would do a private water system and agree to the standards and features, that now allows them to come and get regular water service, then that will be the norm for how you get subdivision approval. There are some precedents set by changing this agreement. Vice Chair Crowell agreed with Manager Craddick that it has to be for the whole system, or nothing.

Ms. Smith stated it would come as a package. Anybody who requests approval for a private water system has to bond for it, which means the developer is out the money, it’s not a letter of credit. That’s an expensive fast track to a subdivision! It’s not just the cost of the engineer and to draw the plans for a private system you’re never going to build, it’s putting up a \$3.5 million bond for something they’re never going to do. That’s a lot of money out of the pocket for not much return in the end. The applicant was happy to agree to the system as a whole coming in, and suggested a 10 minute recess may be helpful to go over the language.

Ms. Suzuki noted that Ms. Smith provided her with the language, but there are a couple of other issues. Chair Nishimura asked who needed to be involved in this discussion besides Ms. Suzuki and Ms. Clark. Manager Craddick would continue at the Regular Meeting with Mr. Fujikawa joining the attorneys’ discussion.

Chair Nishimura brought Mr. Smith’s attention to Item C.5 of the Agreement. The key to C.5 is it that does not prevent the applicant from applying, but it does give the Department the ability not to supply.

Chair Nishimura requested a motion to defer this to the end of the Agenda, so moved by Mr. Costa, seconded by Mr. Kahawai.

Upon query from Mr. Kahawai, Mr. Smith noted that he would not ask for a recess or pushing to the end of the Agenda if it was not really important. There are things coming up that make the timing critical. Ms. Smith stated they have tentative subdivision approval and they are in their first extension. Ms. Smith noted the certified shoreline permit expires at the end of October and it is a six month process to renew this. They would have to get subdivision approval prior to that. When the

private water system agreement by the Department of Water is approved, then the construction plans for the private water system would need to be reviewed by the staff and the applicant wants to give time for review. Then they need to take their plans to the Planning Commission and there are steps they need to take prior to October.

Mr. Fujikawa asked if they have to have a settlement today, or if it is a discussion, and what would happen if they cannot settle. Chair Nishimura noted we would like to have mutual agreement but the Department would have to decide its position.

With no further discussion; by a unanimous vote; motion was carried.

Mr. and Mrs. Smith, Mr. Wada, Mr. Fujikawa, and Ms. Suzuki all left the meeting temporarily at about 10:55 a.m. for a separate discussion. .

Re: Manager's Report No. 10-83 - Request Board Approval of the following documents from the following applicant for their respective projects:

1. **Job No. 05-02, H-8, HW-12, Drill and Test Hanalei Well #2, Hanalei, Kauai, Right of Entry Agreement for a Portion of Tax Map Key: (4) 5-5-008:010 from Craig Wisen (MANAGER'S REPORT NO. 10-83)**

RECOMMENDATION:

It was recommended that the Board approve the Right of Entry Agreement; whereby, Craig Wisen, grants to the Board of Water Supply, County of Kaua'i, a right of entry affecting a portion of Tax Map Key: (4) 5-5-008 Parcel 10 for the Department and its consultants to access and use an unimproved road to get to the proposed Hanalei Well #2 and 0.5 million gallon tank site on Tax Map Key: (4) 5-6-002 Parcel 1 owned by the State of Hawaii.

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

Mr. Costa moved to approve a Right of Entry Agreement from Craig Wisen, including its indemnification provision, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

2. **Job No. 05-02, H-8, HW-12, Drill and Test Hanalei Well #2, Hanalei, Kauai, Right of Entry Agreement for a portion of Tax Map Key: (4) 5-5-008:005 from Ursula Lamberson, Trustee for the Ursula Lamberson Trust**

RECOMMENDATION:

It was recommended that the Board approve the Right of Entry Agreement whereby Ursula Lamberson, Trustee for the Ursula Lamberson Trust, grants to the Board of Water Supply, County of Kaua'i, a right of entry affecting a portion of tax map key: (4) 5-5-008 parcel 5 for the Department and its consultants to access and use an

unimproved road to get to the proposed Hanalei Well #2 and 0.5 million gallon tank site on tax map key: (4) 5-6-002 parcel 1 owned by the State of Hawaii.

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

Mr. Costa moved to approve a Right of Entry Agreement from the Ursula Lamberson Trust, including its indemnification provision, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

3. Right-of-Entry Agreement from Kawamura Farms, Lihue, Kauai, Hawaii

This Item was removed from this Agenda and put on the Agenda for the next meeting. Hearing no objections, so ordered.

4. Conveyance of Water Facility from Robert S. Bradford Jr. and Marilyn C. Bradford, for the Installation of 2nd Single Service Lateral and Backflow Preventer for Lot 11, Unit B; TMK: (4) 5-2-017:011, Kilauea, Hanalei District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Robert S. Bradford Jr. and Marilyn C. Bradford, 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 Installation of 2nd Single Service Lateral and Backflow Preventer for Lot 11, Unit B; TMK: (4) 5-2-017:011, Kilauea, Hanalei District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Costa moved to approve a Conveyance of Water Facility from Robert S. Bradford Jr. and Marilyn C. Bradford, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

5. Conveyance of Water Facility from Arthur H. Loebel, Trustee of the Arthur H. Loebel Revocable Trust and Rhoda U. Loebel, Trustee of the Rhoda U. Loebel Revocable Trust for the Installation of 2nd Single Service Lateral for Lot 3, TMK: (4) 2-7-005: 139, Omao, Koloa District, Kauai, Hawaii

It was recommended that the Conveyance of Water Facility document be approved; whereby, Arthur H. Loebel, Trustee of the Arthur H. Loebel Revocable Trust and Rhoda U. Loebel, Trustee of the Rhoda U. Loebel Revocable Trust, 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 Installation of the 2nd Single Service Lateral for Lot 3; TMK: (4) 2-7-005:0139, Omao, Koloa District, Kauai, Hawaii.

Grant of Easement not required.

Mr. Costa moved to approve a Conveyance of Water Facility from Arthur H. Loebel and Rhoda U. Loebel, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

Re: Resolution No. 16: Authorized Signatures for DOW Bank Accounts
(MANAGER'S REPORT NO. 10-84)

Manager Craddick reported that Resolution No. 16 authorizes two of the four listed positions, (Manager and Chief Engineer, Deputy Manager-Engineer, Waterworks Controller, and Waterworks Accountant IV) to sign bank transactions and bank agreements on behalf of the Kauai Department of Water. The listing of position titles, instead of persons, allows for minimal disruption in the event of position turnover.

The resolution also requires a minimum of two signatures for all bank transactions and specifies to what accounts money can be transferred.

Manager Craddick recommended approval. Requiring the two signatures gives security interest to the bank, so if we owe them, they get to take the money out. In order to have a bank account, the bank requires these signature cards be signed and approved by Resolution authorizing this. The Board did not have a generic resolution like this before but the bank clearly indicates they need a dated, approved resolution.

Mr. Oyama moved to approve, seconded by Mr. Costa.

DISCUSSION

Upon query from Mr. Kahawai on bank withdrawals, Waterworks Controller Ganaden noted it requires two signatures to withdraw; the signatures have to change if there is a change in positions.

On the requirement for two signatures, Mr. Kahawai wondered if Sections 2 and 3 were the same. Mr. Kahawai recommended taking out Section 3, but Mr. Ganaden clarified that Section 2 is to open an account, and Section 3 is for all transactions; this is the bank language on the signature cards.

Upon query from Chair Nishimura wondering if the County Finance Department had access to our bank account, Mr. Ganaden confirmed that they do not and explained that it is a holding account where we earn interest before it is transferred to them and they make the appropriate payments. Manager Craddick noted that State law requires that deposits be made almost daily to the County accounts, but the auditors in the past had ascertained the County was not crediting the interest, so the method was changed.

Upon query from Mr. Kahawai, Mr. Ganaden confirmed that the current signatories are the four listed positions and the Consumer Services Supervisor.

Motion was made to approve the staff recommendation for Manager's Report No. 10-84, requesting approval of Resolution No. 16 for authorized signatures for DOW bank accounts; by a unanimous vote; motion was carried.

STAFF REPORTS

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

Waterworks Controller Ganaden reported that Water sales are on line as projected. In May – June we received \$5.9 million in SRF funds, which would increase our cash on hand approximately to \$13 million, right where we projected for the next year's budget. Pump electrical is \$400,000 under budget and purchase of water is also \$600,000 under budget.

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

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

On behalf of Public Relations Specialist Faith Shiramizu, Manager Craddick gave the following report:

Agriculture and Environmental Awareness Day: The department once again participated in the Annual Agriculture and Environmental Awareness Day, sponsored by the Kaua'i County Farm Bureau and the University of Hawai'i College of Tropical Agriculture and Human Resources (CTAHR). Thank you to Carl, Koni and Scott for helping with the set up the day before and to Carl and Heather for assisting with the event itself. This year we helped the students be aware of "virtual water", which is the amount of water it takes to produce a product. This knowledge made them much more aware of how precious water is, not just for drinking.

Project WET: KEDB is once again working as a partner on a second workshop for fifth grade teachers for early September, prior to our annual Make a Splash Water Festival. Kanani is also organizing a workshop in Hilo for mid September.

An instructor from UH Manoa College of Tropical Agriculture, Department of Natural Resources and Environmental Management, has requested to sponsor a workshop on Oahu in the fall.

Plans and organization for our Annual Make a Splash with Project WET are well on their way with the experienced assistance of Heather.

Blackboard Connect CTY: We are still refining our usage of the County's Blackboard Connect CTY for notifying our customers of planned water outages.

Drought Mitigation: Grant funds from the State of Hawai'i Commission on Water Resource Management Drought Mitigation Project are set to expire at the end of this calendar year. We have sent in a request for an extension as well as a request to amend the portion of the Memorandum of Agreement that pertains to the Kekaha Amfac Shaft project.

DWSRF: As the Department of Health is in the final stages of updating their Priority Project List, we have submitted projects to be considered to be added to the 2010-2011 Priority List.

Summer Intern: Welcome back to Heather Kubota, our summer intern for Public Relations! As noted above, she has jumped right into the tasks at hand.

DISCUSSION

Manager Craddick stated that using the Connect CTY system notifies customers of water outages, which saves our staff from going door to door. It was used the previous evening for the public information meeting concerning the two options for the Ornellas tank in Kapahi. It is not supposed to be used for community meeting notices, though he felt it was a good way to get people to the meetings, especially if the newspaper and radio spots are not reaching the audience.

Upon query from Manager Craddick, Mr. K. Fujimoto confirmed that the additional projects had been added to the DWSRF priority list and sent to the Department of Health. In the letter to Senator Inouye we indicated we would be sending in additional projects for the ones we would not be asking for continued reimbursement on. One of them was the High Level Well as there may be grant money for that as it is an energy saving project. Chair Nishimura asked Mr. K. Fujimoto if the SRF met the June 10 deadline. Manager Craddick noted that if the letter went out the day he signed it, it met the deadline.

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

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

On behalf of Deputy Eddy, Manager Craddick reported that the Personnel reorganization was approved but did not get approved as we wanted, so we will make changes.

Three of the five Operations people passed the April Distribution System Operator (DSO) exam.

Furlough plan is still somewhat up in the air but Manager Craddick will give more comments during the Manager's Report.

Crews in Kekaha replaced approximately 700' of 2" diameter pipeline with 6" diameter pipeline and a new fire hydrant. This should be completed by the end of this month.

The gate is coming in for the driveway, and he is keeping an eye on the overtime for that.

Upon query from Chair Nishimura if the pipeline replacement is part of Water Plan 2020, Manager Craddick thought it was; Chair Nishimura requested Deputy Eddy to include this in his next month's report.

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

Re: Manager's Update for May, 2010 to June, 2010

CONTRACTS AWARDED BY THE MANAGER:

Re: Kapa'a Pipeline Project – Job No. 02-18, Water Plan 2020 Project WK-32, Kapa'a Homesteads Pipeline Replacement, Phase II, Kapa'a Water System, Kapa'a, Kaua'i, Hawai'i

Manager awarded a contract to Jennings Pacific, LLC, in the amount of \$2,706,628.00

FUNDING:

Account No. 201-01, Bond – BAB \$56,778,161.34

Contractor, Jennings Pacific LLC \$2,706,628.00

Contingency, approximately 5%..... \$ 135,372.00

Total <\$ 2,842,000.00

Balance Remaining

Account No. 201-01, Bond – BAB \$53,936,161.34

Re: Kapa'a Pipeline Project – Job No. 04-02, Water Plan 2020 Project WK-14, Pipeline Replacement for Vivian Heights and Kanaele Road , Phase II, Kapa'a Water System, Kapa'a, Kaua'i, Hawai'i

(Note that this is on again to show the correct Contractor below for this project. It was inadvertently stated as Jennings Pacific on the last Manager's Update.)

Manager awarded a contract to Earthworks Pacific, Inc, in the amount of \$2,558,770.00.

FUNDING:

Account No. 201-01, Bond – BAB \$59,464,161.34

Contractor, Earthworks Pacific Inc. \$2,558,770.00

Contingency, approximately 5%..... \$ 127,230.00

Total <\$ 2,686,000.00

Balance Remaining

Account No. 201-01, Bond – BAB \$56,778,161.34

PUMP INSTALLATION PERMITS SIGNED BY MANAGER: None.

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

PERSONNEL MATTERS UPDATE: (Updated June 10, 2010)

RECRUITMENT

Fiscal Division

1. Billing Section - **Data Entry Operator I** selection made. Reference checks in progress.
2. Accounting Section - **Accountant II and III** positions filled.
3. Accounting Section - **Accountant I** position vacant. Requested DPS for a list of eligibles.

Operations Division

1. **Account Clerk** internal department recruitment underway. Applications received and being reviewed.
2. **Automotive Mechanic I** - request for list of eligibles sent to Personnel Department.

Special Projects Division

1. **Civil Engineer V** selection made. Proceeding with pre-employment exams.
2. **Project Assistant** interviews held. Selection made pending back ground search and drug testing.

Engineering Division

1. Request for **Civil Engineer VI** list of eligibles.

Administration Division

1. **Computer Systems Support Technician I** - reference checks in progress.
2. **Commission Support Clerk** position filled; Carol Beardmore started on May 26, 2010.
3. **Secretary** position posted. Awaiting list of eligibles from Personnel Department.
4. Six **Summer Intern** positions filled.
5. Doing redescription of **Comptroller** position.

Affordable Housing Update *(Same update as the April 12, 2010 Affordable Housing Task Force Meeting as the May 10, 2010 meeting was cancelled. The next meeting was held Monday, June 14, 2010 so a revised report was submitted at the June 17, 2010 Board Mtg. with the current updates.)*

The last Affordable Housing Task Force (AHTF) meeting was held on Monday, April 12, 2010 at Pi'ikoi Conference Room A, with the status of projects below.

Updates on AHTF Projects (June 14, 2010):

1. Habitat - Eleele I Luna Subdivision Phase 2 (107 lots, 1 park): Site construction for the 12" sewer main will be completed next week. Housing agency estimated that on-site infrastructure improvements for Phase II, Increment 1, will be bid out by the end of 2010.

Kauai Lagoons – Kapule Project: Water improvements have been conveyed to the Water Board.

2. Housing Agency is preparing amendments to the zoning ordinance and related housing agreement to change the leasehold ownership to fee simple ownership. Housing estimates that Council approved amendments to the Housing agreement to revise the ownership of the units to fee simple title with first preference to employees of Kauai Lagoons.
3. Kukui'ula Employee Housing- "Gap" Housing subdivision and zoning permit. The County Council amended the housing agreement that is required by the Zoning Amendment ordinance this week. The development was able to extend the development deadline until 2013.
4. Koheha Loa (Hanamaulu Triangle) - Water system improvements as set forth by the WMP include offsite source, storage and transmission facilities. DR Horton (DRH) met with the DOW and was informed that necessary water system facilities must be installed as per the Water Master Plan. DRH will continue to work with Grove Farm and the DOW.
5. Paanau Village, Phase 2: The developer is projecting final subdivision approval after the necessary improvements are bonded by Kukui'ula Development Company. On site construction is scheduled for August/September 2010. Occupancy is projected for end of 2011.
6. 'Ele'ele – 75 acre parcel acquisition: Housing Agency executed the purchase agreement with McBryde Sugar Co. to purchase the 75 acre parcel. The Housing Agency is negotiating with their consultant to include a water master plan with the community master plan documents.

State Land Parcels (County Affordable Housing): No report at meeting.
Next meeting will be announced by Housing.

CAK Presentation

Good comments received on upcoming FRC changes. Manager Craddick is trying to get the FRC to the level of what it costs private developers to put the system in.

Furlough Update

Manager Craddick shared that the furlough calendar had been received from the County, and the handout was reviewed. The UPW wants to treat the days as holidays, any work that they do would get overtime on the furlough Friday. HGEA employees can pick another day if they come to work on that day. There are still a few things up in the air. Salaried and contract employees are having a salary adjustment of 9.23% representing the two furlough days. Some employees will be staggering their days, inspectors, etc.

Manager Craddick reported that Public Works wants to cast all of their inspections off on us for the roads on our projects. There are three or four projects in for their approval and if we sign this Memorandum of Agreement that we will do the inspection for them, they will quickly sign them! We would have to look closely at inspecting roadwork.

Chair Nishimura asked if our staff is qualified to do the inspections and Manager Craddick believed so. Manager Craddick stated that Public Works does not want road work going on during the days they are on furlough. Mr. K. Fujimoto noted that when we select the inspector they are not selected based on their knowledge of the road construction. Manager Craddick stated that the inspectors would be provided with extra training if necessary. Mr. Costa updated that the Public Works roadway inspectors may not actually be furloughed, or their days off may be staggered.

Mr. K. Fujimoto reported that there was an incident where someone got hurt so now the County is saying it's our liability to oversee road repairs, so it becomes our responsibility, including traffic control. Manager Craddick noted we would be responsible once the contractor's insurance ran out. Chair Nishimura asked if our current specs also cover the roadway, or is it just by reference. Mr. K. Fujimoto said we reference the County's road repairs, which is being enforced by Public Works right now. Their proposal is that we have to enforce and assure compliance. Manager Craddick asked if this is just for the warranty period, but we need to see the MOA.

Vice Chair Crowell inquired if our offices would be closed on the furlough days and Manager Craddick noted that the Accounting staff may take different days until the audit is done.

Mr. Costa moved to receive the revised Manager's Update for May 2010 – June 2010, and placed it on file, seconded by Mr. Oyama; by a unanimous vote, motion was carried.

Recess: 11:35 a.m. to 12:20 p.m.

The Regular Meeting reconvened at 12:20 p.m.

Re: Request Board Approval of a Private Water System from Falko Partners for Kahu'aina Subdivision, Kīlauea, Kaua'i (Manager's Report No. 10-85)

Manager Craddick reported that an agreement had not yet been reached but the applicant was willing to have the Board approve the current agreement, subject to allowing the Board Chair to approve it, if we can come up with some language that makes this sufficiently unique that it would not carry on to other subdivisions. We know they have spent around \$1.5 million already on tank, wells and approval of the system by the DOH. They plan to disconnect the 14 meters right now, if they actually go ahead with the second phase, where we would not have this potential for interconnects as it goes down the road. Those things may make it sufficiently unique so we could go ahead and approve something. If the Board can see clear to allowing the Board Chair to approve this based on the two parties coming to agreement in the near future - they would be agreeing to something that we do not exactly know what it is - but would rely on the Board Chair to use his judgment on approving this, then Manager Craddick felt we could move forward today.

Upon query from Chair Nishimura, Mr. Smith was agreeable with this and thanked the Board for their cooperation. Mr. Smith noted that they still have to work past the 14 meters and there are still some semantics involved. The applicant still needs to work this out, but stressed there will never be a mixed system on the property. They

have to figure out how far they will go depending on size and density when they make that switch.

Chair Nishimura stated the motion that the current Private Water System Waiver, Release and Indemnity Agreement for TMK: (4) 5-1-03:006 between the applicant, Falko Partners LLC and the Board of Water Supply, Kaua'i County, would be the official agreement, unless both parties can come to an agreement within the next couple of weeks, and that the Board Chair would be authorized to execute that agreement on behalf of the Board.

The applicant concurred that this was also their understanding.

Mr. Oyama asked how many lots were in the subdivision. Ms. Smith noted there are 11 large lots, and they may or may not further CPR those. They have not obtained zoning permits, do not have a pending CPR application and are not planning on that right now, but the maximum allowable density upon approval of the subdivision is 70 home sites. They have DOH approval to serve water through the private water system for 70 home sites, but the applicant does not have any intention of building out to maximum density.

Chair Nishimura noted we would have to get County Attorney blessing on whatever the eventual amendments might be.

Mr. Costa moved to approve that the current Private Water System Waiver, Release and Indemnity Agreement for TMK: (4) 5-1-03:006 between the applicant, Falko Partners LLC and the Board of Water Supply, Kaua'i County, would be the official agreement, unless both parties can come to an agreement within the next couple of weeks, and that the Board Chair would be authorized to execute that agreement on behalf of the Board and also contingent upon County Attorney's approval; seconded by Mr. McCormick; by a unanimous vote; 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).

EXECUTIVE SESSION AGENDA: None.

There was no Executive Session at this Board Meeting.

TOPICS FOR NEXT WATER BOARD MEETING:

1. Public Hearing for our Proposed Rule Revisions (*July, 2010*)
2. Request Board Approval for a Right of Entry for Kawamura Farms, Lihu'e, Kaua'i.
3. Quarterly Reports:
 - a. For the Board's Information on the Kauai County Water Department Briefing on Departmental Projects (*July, 2010*)

- b. Strategic Plan Update: Issue Champions & Affordable Housing Reports (*July, 2010*)

TOPICS FOR FUTURE WATER BOARD MEETINGS

1. Request Board Approval of Resolution No. 1, (*10/11*), Budget for Fiscal Year 2010-11 (*August, 2010*)
2. Job Performance Evaluation of the DOW Manager and Chief Engineer (*August, 2010*)
3. Quarterly Reports:
 - a. For the Board's Information on the Kauai County Water Department Briefing on Departmental Projects (*October, 2010*)
 - b. Strategic Plan Update: Issue Champions & Affordable Housing Reports (*October, 2010*)
 - c. Informational Report on Manager's Goals (*October, 2010*)

UPCOMING EVENTS

1. AWWA National Conference in Chicago – *June 20-24, 2010*
2. Hawai'i Water Works Association (HWWA) Annual Conference on Kaua'i - *October 13-15, 2010*

NEXT WATER BOARD MEETINGS

1. Thursday, July 15, 2010, 10:00 a.m.
2. Thursday, August 19, 2010, 10:00 a.m.
3. Thursday, September 16, 2010, 10:00 a.m.
4. Thursday, October 21, 2010, 10:00 a.m.
5. Thursday, November 18, 2010, 10:00 a.m.
6. Thursday, December 16, 2010, 10:00 a.m.
7. Thursday, January 20, 2011, 10:00 a.m.

ADJOURNMENT

There being no further business, the meeting was duly adjourned at 12:30 p.m.

Respectfully submitted,

Carol Beardmore, Commission Support Clerk

APPROVED:

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

cab