

**REGULAR MEETING**  
**BOARD OF WATER SUPPLY**  
**Tuesday, September 19, 2006**

The Board of Water Supply, County of Kaua'i, met in regular meeting at its office in Lihu'e on Tuesday, September 19, 2006. Pro-Tem Chairperson Bernie Sakoda called the meeting to order at 10:50 a.m. and requested a moment of silence for Mike Furukawa, Vice President of Grove Farm Properties.

On roll call, the following answered present:

BOARD: Ms. Bernie Sakoda, Pro-Tem Chairperson  
Mr. Ian Costa  
Mr. Donald Fujimoto  
Ms. Lynn McCrory

Absent & Excused: Ms. Josephine Sokei  
Mr. Steven Kyono  
Mr. Myles Shibata

STAFF: Ms. Wynne Ushigome  
Mr. Les Yoshioka  
Mr. Keith Fujimoto  
Mr. Bruce Inouye  
Mr. Edward Doi  
Deputy County Attorney Galen Nakamura

Absent & Excused: Mr. Paul Ganaden  
Mr. Gregg Fujikawa  
Deputy County Attorney James Tagupa

GUESTS: Mr. Dave Jochim, RW Beck  
Mr. Tom Cutting, RW Beck

**AGENDA**

Ms. McCrory moved to approve the Agenda, seconded by Mr. Fujimoto; motion was carried.

**MINUTES**

Acting Manager Ushigome corrected the minutes in the following areas and should be written as such:

1. Page 3, 1<sup>st</sup> Paragraph, 2<sup>nd</sup> sentence: However, in this case, WBR, as part of the 1<sup>st</sup> Amendment of their agreement to pay a proportionate share of the construction of 1.0 MG Stable Tank that would resolve the storage requirement ~~in the area, would later result in FRC credits~~ for WBR.

2. Page 3, 1<sup>st</sup> Paragraph, last sentence: Therefore, in order to minimize FRC payments going back and forth, it was decided instead to allow WBR to bond the remainder of the outstanding FRC amount.
3. Page 3, 3rd Paragraph, 2<sup>nd</sup> sentence: They have been trying to work out what the bond amount should be for the remaining FRC that is due. ~~Since the appropriate bond amount is not finalized for the remaining FRC and there are no procedures rule or policy in place yet, she asked if the Board to would consider approving the concept of utilizing the bond to defer the rest of the FRC payment and once the DOW approves and signs the construction plans, the DOW can install their water meter until the final constructions costs were reconciled to determine the applicable FRC offset.~~
4. Page 4, Paragraph 8, 3<sup>rd</sup> sentence: She added that the site was also used previously as a tank site, ~~which would make the drafting process of the EA an easy one.~~
5. Page 1, Agenda, Ms. McCrory also requested to re-order the Agenda and to have the following items to follow Correspondence and Announcements: Old Business Item No. F4: Request Board Approval of the Second Amendment to the Water Storage Facilities Development Agreement with Waipouli Beach Resort LLC for the Waipouli Beach Resorts and Spa, Zoning Permit Application Z-IV-2003-8, TMK: (4) 4-3-08:001 Waipouli, Kawaihau, Kauai, Hawai'i; and new Business Item No. G1: Request Board Approval for Additional Funding for an Amended Contract with RW Beck, Inc. and the Kua'i Department of Water for their Strategic and Business Plan and Needs Assessment.

Mr. Fujimoto moved to accept the Regular Meeting Minutes of August 15, 2006, as amended and placed on file, seconded by Mr. Costa; motion was carried.

**CORRESPONDENCE/ANNOUNCEMENTS:**

**Re: News Articles in the August 17, 2006 and August 24, 2006 Issues of The Garden Island Newspaper on the Council Wanting Oversight over the Department of Water**

Received for the record.

**Re: News Articles in the September 1, 2006 Issue of The Garden Island Newspaper on the Council Relinquishing their Request to Want Oversight over the Department of Water**

Received for the record.

OLD BUSINESS

**Re: For Board’s Information on the Department of Water’s Vacant Position**

**Discussion and Action Steps concerning Selection Process for New Manager and Chief Engineer of the Kaua’i County Water Department and Discussion**

Acting Manager Ushigome reported that to date, we have not received any applications in response to the recent job advertisement. The deadline to receive applications is Friday, September 29, 2006.

**Recommendation:** The Department recommended that the Board approve \$200,000 to initiate efforts to procure a professional services contract for a company to provide a qualified Water Manager to assist in the operations and management of the activities of the Department.

Or, another option would be to enlist the services of an employment and or search firm to hire a manager given a salary range of \$75,000 to \$140,000. The salary range is based on an *Opinion on Market Salary Range for General Manager*, prepared by RW Beck’s letter dated July 14, 2006.

**Funding:**

Total Funds Available, Account 27, Contractual Service.....	\$462,000
Professional Services Management Contract.....	\$181,800
Contingency .....	<u>18,200</u>
Total Required .....	< <u>\$200,000</u> >
Balance Remaining .....	\$262,000

Ms. McCrory added that she would want the DOW to work on both options above simultaneously. She had personally hired Mr. Gary Slovin, Esq. with Goodsill to research the possibility of having the Water Board designate the compensation of the Water Manager based on their read on statutes and ordinances.

Ms. McCrory recommended that the Board approve both of these options; however, the second option of using an employment search firm to hire a manager given a salary range of \$75,000 to \$140,000 will be done contingent upon the approval of the County Attorney.

Mr. Fujimoto wondered why the Board can hire a consultant at any amount but we have restrictions with hiring a Manager. On query by Mr. Fujimoto, Ms. McCrory stated that the Board could hire the Manager as a consultant if the consultant had his/her own company.

Mr. Fujimoto discussed that if a consultant is hired to manage the DOW that person would be hired in an advisory capacity; however, Acting Manager Ushigome would still be the person in charge and would still be in the capacity of an Acting Manager.

On query by Mr. Fujimoto, Acting Manager Ushigome stated that it became clearer to her on what the Board envisioned as a contract hire. She initially thought that this contract hire would be a Manager with all its power and authority. Mr. Fujimoto added that the Board is giving her the flexibility to do what she wants to do. It could be hiring an assistant or someone higher.

Acting Manager Ushigome stated that she does not have anyone in mind at the time and asked the Board for any suggestions. Mr. Fujimoto added that she could also do a RFQ and hire a consultant firm to designate a person to work at the DOW on an 89-day contract. On query by Mr. Fujimoto, Acting Manager Ushigome stated that she would be able to use someone like that.

Ms. McCrory stated that she wanted to work on these options as it would probably be next year by the time the Salary Commission is formed and makes recommendations.

Mr. Fujimoto moved to authorize the Acting Manager to hire a person or a firm to assist her in the administration of the DOW as she sees fit with a budget of \$200,000 for this year, seconded by Mr. Costa.

Mr. Fujimoto discussed that once this is approved, Acting Manager Ushigome could start the process immediately. Motion was carried.

Ms. McCrory moved that we provide an option to enlist the services of an employment search firm for the Manager of a salary range of \$75,000 to \$140,000, pending a decision from the County Attorney's Office, seconded by Mr. Fujimoto.

On query by Mr. Fujimoto, Ms. McCrory stated that the Board has the authority to hire the Manager and the County Attorney would need to do a legal opinion on whether the Board has the authority to set the Manager's pay.

On query by Ms. McCrory, Deputy County Attorney Nakamura stated that it would need to be decided on a case by case basis to decide if a person would be qualified if they had previously lived on Kaua'i.

Mr. Fujimoto clarified and was concurred that the motion is to set the salary range; therefore, if the Board does get confirmation from the County Attorney, that they can negotiate and set the Manager's salary.

Ms. McCrory wanted to activate the 2 options simultaneously to have the ball rolling to ensure that our bases are covered to possibly save time to have both options done, which is to have assistance available for the Acting Manager and to not lose any time to continue the recruitment process for the hiring of a Manager. Also, if the County Attorney rules against Option 2, there is still Option 1 available.

Motion was carried.

## Actions Steps to Increase Water Manager's Salary

The following is an update on the various avenues the Board is exploring to increase the Water Manager's salary:

- Amending Section 3-1.2 of the Salary Ordinance

There are no new additions to report on at this time regarding the Mayor's request to Council exempting the positions of the Water Manager and Chief of Police from the Salary Ordinance. The Mayor's proposal was to effectively set the Manager's salary comparable to the highest paid civil servant in the respective departments

On a side note, at the August 30, 2006 County Council meeting, Council passed Resolution No. 2006-30 appointing Gini Kapali to the Salary Commission. Now, possibly as many as 5 of the 7 members have been selected or are in the process of being appointed to the Salary Commission. Due to the amount of time that has lapsed since Salary Commission was previously active, the Administration is tasked with filling 4 of the Salary Commission positions while the County Council is responsible for appointing the remaining 3 members. Based on my discussions with the Administration's and Council's staff, it appears that they are tentatively targeting the end of the year as the deadline to have the commitments by the potential commission members. However, both branches are still looking for volunteers to serve on the Salary Commission.

- Charter Commission

The proposed Charter Amendments were given to the Board for their information. The amendment information contains the Charter ballot questions, text and pro/con sheets. The Board sponsored amendment is identified as Proposal No. 5: Changes Salary Commission's Salary Setting Authority.

Requested the Department's Public Relations consultant, Stryker, Weiner and Yokota review their existing PR contract and prepare a cost proposal for providing assistance and awareness to the voters on the proposed Charter Amendments. Specifically, the Department's focus is on Charter Amendment Proposal No. 5 relating to Salary Commission the authority to establish salaries of the county officers and employees exempt from civil service, unless the recommendations are rejected by a supermajority of the council. The PR consultant would be tasked with providing awareness, education and voting information on the issue.

The next Kauai County Charter Commission meeting is scheduled for September 20, 2006 at 4:30 p.m., Lihue Civic Center, Moikeha Meeting Room 2 A/B.

For the Board's information, Acting Manager Ushigome stated that another charter amendment that affected the Water Board was eliminated. It was re-instating the ex-officio Board members to have the ability to be Chair and Vice Chair.

Deputy County Attorney Nakamura gave an update of the last Charter Review Commission Meeting that the Commission will do a public education campaign which will compose of print, radio and television ads. The campaign will start about 3 weeks and done regularly before the General Election.

On query by Ms. McCrory, Deputy County Attorney Nakamura stated that the Commission will hire and work with the campaign personally as they have a minimal budget.

Deputy County Attorney Nakamura advised the Board and Department that the public education campaign should be specifically educational and factual.

### **Hiring a Contract Hire to Assist the Acting Manager**

There is nothing to report at this time.

### **Discussion and Action Steps concerning Selection Process for New Manager and Chief Engineer of the Kaua'i County Water Department and Discussion – CONTINUED**

Mr. Fujimoto reverted back to this topic to also include the Deputy Manager's salary, along with the Manager's salary.

### **For Board Information on the Reallocation within the Engineering Division**

Recommendation: Acting Manager Ushigome requested the Board to reconsider its action to remove the Engineering Division's EM-7 (CE VII) vacant position and replace the EM-7 with two (2) EM-5 positions. Although the Board has the prerogative to abolish and create positions, the reallocation of position(s) should be an administrative function. If further discussion is desired by the Board, the Department is willing to assist by providing background information and recommendations.

Funding: N/A

Discussion:

At its August 1, 2006 meeting, the Board voted to remove the (vacant) Engineering Division Head's position (EM-7) and restructure the Department's Table of Organization by creating two (2) separate divisions under the EM-5 positions. Based on my understanding, the Board felt adding an additional position would help expedite the completion of the WP2020 projects. Essentially, one EM-5 would be tasked with the Department's CIP projects and the other would be handling private development improvements.

Perhaps reviewing the recent history in relation to the Department's organizational structure will help clarify the intentions of the Board's desire to restructure the organization. To begin, let me qualify my statements and recollection of the events since I was not here at the Department when the re-organization took place.

Ironically, (as is often the case) history often repeats itself.....up to around 2001, the Department was operating in a very similar fashion to what the Board is currently proposing. Instead of the current five (5) functional divisions (Engineering, Water Resources & Planning, Operations, Fiscal, and Administration), there were six (6) divisions (Design & Construction, Special Projects, Water Resources & Planning, Operations, Fiscal, and Administration). What happened essentially was that the Design & Construction and Special Projects Divisions merged to become the Engineering Division. Formerly, under the old Water Department's 6-division organizational structure, all the Division Heads were designated as EM-5s.

What caused the change? Around September 2000, the Department of Water realized their Division Heads were not equally compensated in comparison to their counterparts at the Department of Public Works. Through the years, the Department of Public Works managed to raise their technical engineering division heads to EM-7s, allowing for increased compensation to be afforded to these top level managerial and administrative positions. Due to this inequity in the position designation and compensation scale, Department of Water lost an experienced division head, as the individual transferred out to work for Public Works.

Around this same time, WP2020 was being completed and the Department probably realized that it needed to stay competitive, in order to retain its most experienced senior staff members and be able to attract qualified, reliable workers in order to accomplish the goals of the plan. One outcome that emerged was combining Design & Construction with the Special Projects to form the current Engineering Division and this position was reallocated from an EM-5 to an EM-7. Similarly, the Water Resources Division Head was also subsequently reallocated to an EM-7.

The process of reallocating and restructuring the Department "down" should be well-planned and thought-out. Reallocating position downward would be simpler than changing a position designation upwards, however, once we down-grade the position and the Department once again experiences a departure of an EM-5 due to an inequity in pay, it will be very difficult to get the EM-7 designation reinstated.

One final thought, unless the Department of Public Works is committed to also effectively down-grading all their EM-7 division heads, it was not felt that the Department of Water will benefit by changing the Engineering Division Head's position lower than what would be comparable at Public Works.

Mr. Fujimoto clarified his intent and part in the Board's decision to reallocate the EM-7 to two EM-5 positions was with the background knowledge that the EM-7 position was made by combining 2 functions of EM-5 positions. Each of the EM-5 positions took care of the Special Projects and Design and Construction Sections. The Board felt that the previous structure would help since the Department is short-staffed.

Acting Manager Ushigome stated that the Public Works Department (Public Works) had reorganized and had a few EM-7 positions created; therefore, if the DOW does not have a comparable position, it would be detrimental to the DOW as our employees will have a tendency to move to Public Works. We already had one such case. She felt that the Department would be going backwards instead of moving forward.

Mr. Fujimoto added that he acknowledges that there is a difference between the DOW and Public Works. However, he felt that the new Manager could later promote the two EM-5s to EM-7s if so desired.

On query by Acting Manager Ushigome, Mr. Fujimoto stated that Public Works would downgrade a vacant position from an EM-7 to an EM-5 if the past incumbent was doing 2 jobs.

Mr. Fujimoto also added that this would also be an opportunity for the EM-3 positions to be promoted to the EM-5 positions. He also recommended that maybe a pay study should be done for the DOW to ensure that we are inline with the rest of the County.

Mr. Fujimoto stated they understand that the Department is overwhelmed and the employees are often overworked; therefore, the Board's action has created 2 high level positions. Mr. Fujimoto stated that the Board did what they thought was best for the Department even though the new Manager would have the flexibility to change it.

Mr. Fujimoto also stated that he had to be blunt that there was a concern that the EM-7 applicants are the ones that are pushing for the EM-7 position. Acting Manager Ushigome stated that the EM-7 position already exists.

Ms. McCrory added that she has changed her position on the Board's decision to reallocate the EM-7 position to two EM-5 positions. She stated that she changed her mind as she felt that a high level engineer would be needed in order to manage and oversee Water Plan 2020. The EM-7 would work independently with consultants and possibly with an EM-5 below that position to work with either Water Plan 2020 or development. Ms. McCrory's other concern is that the DOW experienced one of its employees who moved to another department for an EM-7 position. She also felt that it would be better to keep the EM-7 for now and when the new Manager comes on board, he/she could add on a new EM-5 position then.

There was some discussion on whether pay was a concern or not. Mr. Fujimoto discussed that he felt pay was a concern although both annual salaries of an EM-5 and EM-7 are pretty close. So he felt that the pay would still be attracting good applicants.

Mr. Fujimoto added that although he felt uncomfortable to reallocate the EM-7 to two EM-5s, but the Board felt confident that they could get more qualified personnel into these top positions.

On query by Acting Manager Ushigome, Mr. Fujimoto stated that if he was confronted with this same situation at Public Works, he would do this same thing. Since a recruitment for EM-5 positions have not been done yet, Mr. Fujimoto felt that recruiting for EM-5s would be interesting to see who applies. He felt that there would be more applicants for the recruitment of the EM-5 positions. If not, then pay is a factor.

On query by Ms. McCrory, Acting Manager Ushigome stated that although the Board created another position, the ultimate review and approval needs to be by the Department of Personnel Services (DPS). Knowing that there is still the civil service

process, Ms. McCrory felt that the EM-7 should be reinstated to get the higher level personnel. Mr. Fujimoto added that EM-5s are also high-level personnel.

On query by Acting Manager Ushigome, Mr. Fujimoto stated that he has similarly reallocated downwards some of his positions before so new employees would start at lower levels; and if they are qualified, he would then reallocate them upward.

Acting Manager Ushigome stated that the importance of the tasks is the same between the Public Works Department and the Department of Water. Mr. Fujimoto added that the Board is giving the Department the luxury of now getting 2 top-level positions as the EM-5s are very close in pay to the EM-7s. Acting Manager Ushigome was concerned that history would repeat itself and our personnel would migrate to the Public Works Department to get the EM-7 positions. Mr. Fujimoto rebutted that she could as Acting Manager reallocate the EM-5 positions to an EM-7. Acting Manager Ushigome stated that the Department already has the EM-7 position and would be more work and difficult for the Department to substantiate another personnel movement with DPS.

Mr. Fujimoto reiterated his position on who is fighting for this position is the person that is applying for the position. Acting Manager Ushigome replied that she felt that it was his perspective; however, she is looking at what is good for the Department. She added that the main thing is that he felt that he was doing the right action for the Department. Mr. Fujimoto concurred that he felt it was the best action. He also stated that the pay compensation study that is happening now at DPS would probably show that these positions should be EM-7s and whoever is the Manager at that time can make the call.

Ms. McCrory stated that based on the personnel information packet that was given to the Board, she reviewed the process and DPS needs to make the final decision and not the Board. Mr. Fujimoto stated that based on information given to them at a previous meeting, Deputy County Attorney Nakamura and DPS told the Board that it was an option to do this reallocation.

Deputy County Attorney Nakamura added that there still is a process to follow. As far as he understands the process, the Board could approve the reallocation; however, DPS would do a study and make a classification of the position based on the responsibilities and job functions of that position.

Mr. Fujimoto and Deputy County Attorney both requested that DPS and our Personnel Assistant, Ms. Debra Togioka, should be both consulted to clarify this situation.

Acting Chair Sakoda stated that Chair Sokei had requested previously to defer this situation to our November, 2006 Board Meeting because there are a lot of unanswered questions. Ms. McCrory was concerned that it would take too long to settle this matter if the Board waits till our November, 2006 Board Meeting. She felt that since there is presently a list of applicants for the EM-7 position that the recruitment process should proceed and if the new Manager wanted to reallocate this position into 2 EM-5 positions that would be his/her prerogative. Again, she was also

concerned that the EM-7 applicants may also migrate to the Public Works Department.

Mr. Fujimoto also explained to Acting Manager Ushigome that the Board knew that there were good qualified applicants for the EM-7 position and wanted to keep more of them. Mr. Fujimoto stated that if Acting Manager Ushigome did not feel that way then the Board should revisit this situation. He personally still felt that since the Department is shorthanded, that this was an opportune time to get another qualified position. The new Manager could then reallocate the positions to an EM-7 if he so wished.

Mr. Fujimoto stated that there is a significant difference of responsibilities between EM-7 positions at the Public Works and Water Departments and the amount of people that they supervise. Acting Manager Ushigome stated that Public Works Engineering Division is just about the same size as the DOW's Engineering Division that consists of the Design and Construction and Special Projects Sections. Mr. Fujimoto added that is why at some point the EM-5 positions could be reallocated to EM-7 positions. He still felt that this was an opportunity for the DOW to get 2 positions, possibly an engineer and a planner. Mr. Fujimoto stated if he had this opportunity to have 2 positions instead he would definitely take it as they are understaffed too; although in his case, he has to answer to the County Council, who probably would not be amicable to this situation.

On query by Ms. McCrory, Mr. Fujimoto felt that it would be up to the new Manager if he/she wanted to have the 2 positions to be an EM-7 and an EM-5. Mr. Fujimoto added that the Board split the EM-7 into its 2 original positions like how it was before the EM-7 position was formed.

Ms. McCrory felt that the EM-7 position should be left as is, recruit to fill the position and fill the position as soon as possible. Mr. Fujimoto felt that this personnel matter should be deferred so it can be further discussed in Executive Session and have DPS present at the meeting to guide them through the reallocation process. Deputy County Attorney Nakamura requested that Mr. Tom Takatsuki of DPS be asked to attend the next Board Meeting on October 17, 2006. It was so noted.

Mr. Costa moved to defer this matter to the October 17, 2006 Board Meeting. Ms. McCrory requested to have a Special Meeting instead prior to the next Board Meeting. Mr. Costa withdrew his motion.

After a cursory review of the written reallocation process, Mr. Fujimoto stated that the Board cannot do the reallocations but the Manager is able to do so. Acting Manager Ushigome stated that theoretically it should be management's prerogative for reallocation. This matter initially only came before the Board to get assistance with the interview committee. Acting Manager Ushigome stated that reallocations are an administrative function, which Mr. Fujimoto now agreed.

Mr. Fujimoto reiterated that the only reason why they took this step was to get 2 good applicants instead of only one and his big issue was there appeared to be a conflict

with the Acting Manager, being the person that determines whether there should be a reallocation or not, was also an applicant for the EM-7 position.

Ms. McCrory and Acting Chair Sakoda both agreed that the Board overstepped their boundaries since it has been determined that reallocations are an administrative function. The Board should only be dealing with the EM-7 position and if the Board felt that there should be another EM-5 position, they can recommend that to the Manager. Mr. Fujimoto added then it would be the Manager's decision.

Mr. Fujimoto recommended that DPS be present at the next Board Meeting.

As this was not stated as an action item on this Board Meeting's agenda, Deputy County Attorney Nakamura recommended that any motions on this matter be taken up at the next Board Meeting. Mr. Fujimoto added that it would also be best to bring this matter to the attention of the rest of the Board members that were not present at this meeting.

Mr. Fujimoto stated that the Board still has to go through processes in order to get an independent interview panel to fill the vacant DOW EM-7 position. Therefore, time is not a real factor since the proposed interview panel would not consist of County employees, another process would need to be followed. This interview panel would be considered an Advisory Committee that would need the Mayor's approval.

Ms. McCrory requested that the next Board Meeting to start earlier to have enough time for discussions on this matter as well as to take care of Board business and to do the Board's Strategic Plan Workshop.

Acting Board Chair Sakoda requested that all of the Board members thoroughly review the personnel packet that was given to them at the last Board Meeting and to be ready for the next Board Meeting.

Ms. McCrory moved to defer this matter to the October 17, 2006 Board Meeting to start at 8:30 a.m. with DPS present at the meeting, seconded by Mr. Costa.

Mr. Fujimoto requested that the DOW Personnel Assistant, Debra Togioka, to also be present at the meeting to hear the history of the initial process on how the 2 EM-5 positions were formed into the present EM-7 position.

Motion was carried.

## **NEW BUSINESS**

**Re: Request Board Approval to Send a Letter to the Kauai County Council in Response to their Resolution to Change the Semi-Autonomy of the Department of Water**

### **Recommendation:**

It was recommended that the Board review and approve the letter to the Kauai County Council in response to Council Resolution No. 2006-26 which effectively states that

the Board of Water Supply's acknowledges and collectively supports the testimony and initiatives presented during the recent Council meetings.

**Background:**

On August 30<sup>th</sup>, at a full Council meeting, the Council members voted not to support the resolution to restructure the Department of Water as an executive agency subject to the Mayor's executive management and Council's legislative oversight. During these Council proceedings, Board members, Lynn McCrory, Bernie Sakoda, and Chair Joey Sokei were present and addressed the Council's concerns regarding the need to develop affordable housing and the water constraints, which were precluding these projects from proceeding.

Based on one-on-one discussions with each Council member, Board member Lynn McCrory compiled a list of questions and issues that the Council had concerns about. She did the research and provided the necessary (timely) responses back to the Council in order to allay their concerns. In her written letters to Chairperson Asing and Council members, Board member McCrory qualified her responses as being from an individual Board member and not the Board, since Board did not meet (given the time constraints of providing meeting notice in accordance with the Sunshine Law) to formalize a written response to Council. To address this issue, we have compiled the following correspondences and discussion notes as presented to the County Council for the Board's review and concurrence. In addition, a draft Board response letter to Council is also included for your review and comments.

- Follow Up from July 27, 2006 Council Meeting for Resolution 2006-26 Restructure of Water Department dated July 31, 2006 letter to Mr. Kaipo Asing, Chairperson and County Council Members;
- Second Follow Up from July 27, 2006 Council Meeting for Resolution 2006-26 Restructure of Water Department dated July 31, 2006 letter to Mr. Kaipo Asing, Chairperson and County Council Members;
- Final Follow Up from July 27, 2006 Council Meeting for Resolution 2006-26 Restructure of Water Department dated July 31, 2006 letter to Mr. Kaipo Asing, Chairperson and County Council Members;
- Kauai County Board of Water Supply, Points for Kauai County Council Meeting, Resolution 2006-26, and;
- Draft Board of Water Supply Response Letter to County Council Resolution 2006-26 dated September 19, 2006.

In a separate but related item, after the August 23<sup>rd</sup> public hearing, the Council forwarded the resolution to Committee for further discussion. Based on public testimony, a member of the public indicated he felt that the activities of the Department were not "transparent" since the Water Department's was not included as part of the overall Administrative budget. Although a clarification was provided that the Department, in accordance with the County Charter, Article XVII, Section 17.03A, is required to provide quarterly financial statements to the Mayor and the

Council. Councilmember Yukimura asked, if the Board would consider televising its monthly meetings.

After further discussion, the Council at the August 23<sup>rd</sup> Committee meeting decided to refer the resolution back to the Full Council before deciding whether to move forward with the proposed resolution. The resolution did not pass through the Full Council on August 30, 2006; therefore, the resolution will not be included as part of the proposed Charter Amendments slated for this year's general election ballot.

The Department of Water wholeheartedly thanked Board member Lynn McCrory as it was really appreciated of her outstanding efforts that were quick, and focused to inform, reassure and address the Council members' concerns.

Acting Board Chair Sakoda stated that Ms. McCrory did an outstanding job working with the County Council members. They were really impressed with Ms. McCrory's quick responses to all of their questions. She did her homework well and we can all learn from this. The Board also wholeheartedly thanked Ms. McCrory for a job very well done.

Mr. Costa moved to approve the letter to be sent to the Kauai County Council in response to Council Resolution No. 2006-26 which effectively states that the Board of Water Supply's acknowledges and collectively supports the testimony and initiatives presented during the recent Council meetings, seconded by Mr. Fujimoto; motion was carried.

Acting Manager Ushigome added that per a comment from the Council Meeting audience that the DOW does not transpire what is happening at the DOW, County Councilmember JoAnn Yukimura asked whether the Water Board would want our meetings televised. Acting Manager Ushigome did clarify to the public that per County Charter, the DOW does submit its quarterly financial statements to the Council and our Board Meetings are noticed at the County Clerk's Office.

The Board did not feel it was necessary to televise our Board Meetings. Our meetings are open to the public; however, Ms. McCrory stated that if there is anything to report the DOW should keep the County Council informed.

**Re: For Board's Information on the Department of Water's Processing of Applications for Additional Dwelling Units (ADU)**

Mr. Costa reported on the following for the Board's information only:

**Recommendation:**

It was recommended by the Planning Director to include an agenda item in the September Board meeting; whereby, the Board could be apprised of and be provided the opportunity to discuss the upcoming "sunset" of allowable ADUs in Agriculture and Open zoned lands. With the recent Planning Commission decision not to extend the December 31, 2006 deadline for ADUs in Ag and Open zones, it is not known whether the Council will move forward with the bill, which proposes to extend the deadline for another 10 years.

**Background:**

Since the Planning Commission recommended denying extension of the deadline for processing Ag and Open zoned ADU permits, the Planning Director felt it would be appropriate to apprise the Board of the upcoming changes. In addition, we anticipate a surge of ADU permit requests during the next several months as landowners rush to complete the necessary ADU clearance requirements.

With the deadline for ADUs in Ag and Open zones coming up at the end of the year, the question becomes what is the status of any unconstructed, but approved ADU clearances? Are these parcels considered “vested” in having an ADU, if an ADU building permit was issued? Or, is simply having a completed, signed ADU clearance form that would allow the landowner to be considered “vested” for a future ADU? Planning will be establishing the necessary criteria for determining what will constitute “being vested” to have an ADU? And, will there be a time deadline for commencing construction of such ADUs?

Also, the Planning Director wanted clarification on how the Department of Water processes an ADU clearance. The Department approves ADU clearance forms prior to the water meter installation, preparation of construction drawings and payment of fees; however, the Department will not sign off on the building permit until these requirements are completed.

Mr. Costa discussed that he wanted to make the Board members aware of the above and the DOW’s ADU process in case the Board or DOW gets contacted by the Councilmembers or need to attend one of the Council Meetings on this matter.

On query by Mr. Fujimoto, Mr. Doi stated that there is a policy that the DOW will not install a second meter for ADUs. The owner would have to hire someone to do all that or they can apply for water service for their ADU, pay their facilities reserve charge (FRC) fee and then connect to the existing water meter of the first house.

Mr. Costa stated that as it reads now, the applicant would need to have building permit approval by December 31, 2006.

Mr. Fujimoto stated that he heard on the televised Council Meeting that someone from the public stated that ADU review takes about one year at the DOW. Mr. Doi rebutted that the ADU clearance forms are normally reviewed over the counter when the customer comes to the DOW. Mr. Fujimoto stated that they are probably trying to get the Council’s sympathy to buy them more time.

On query by Mr. Fujimoto, Mr. Costa discussed possible exit strategies on the sunset of the ADU ordinance and he thought that either an extension would be needed or to accept all ADU Clearance Forms that are dated by COB on December 31, 2006. The Council will decide and will inform the County Departments.

Mr. Costa stated that it may be good for a courtesy to inform the Council to know that the DOW has a policy to not install a second meter for ADUs. The owner could hire someone to do all that or they can apply for water service for their ADU, pay their

facilities reserve charge (FRC) fee and then connect to the existing water meter of the first house.

**Re: Request Board Approval for Funds to Hire Special Counsel to Resolve the Bid Protest for the Proposed Automatic Meter Reading (AMR) Project**

**Recommendation:**

It was recommended that the Board approve funding of \$10,000 to hire special legal counsel to resolve a potential bid protest filed for the AMR project.

**Funding:**

Account No. 27, Contractual Services:..... \$10,000.00  
TOTAL ..... \$10,000.00

**Background:**

The Department of Water received a bid protest letter from one of the AMR contractors. Since the County Attorney’s office is busy and cannot provide the necessary support at this time, they recommended that the Department hire its own special legal counsel to prepare any necessary documents to resolve this issue.

In the Department’s annual professional services solicitation, the Department requested proposals for special counsel services and will be following procurement procedures to enter into a contract once the funds are approved.

Ms. McCrory moved to recommend that the Board approve funding of \$10,000 to hire special legal counsel to resolve a potential bid protest filed for the AMR project, seconded by Mr. Fujimoto; motion was carried.

**REPORTS**

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

Received this report for the record.

**Re: Manager’s Update for August, 2006 to September, 2006**

**CONTRACTS AWARDED BY THE MANAGER:**

- 1. Job No. KW-28, Amfac Shaft 11 (State Well No. 5842-02), Phase IA, Feasibility, Tax Map Key: 1-2-02:por. 1, Kekaha, Kauai**

**FUNDING:**

Job No. 06-01 (KW-28) Amfac Shaft 11 Renovation  
Phase 1A, Feasibility, Kekaha. ....<\$ 35,294.00>  
Contingency.....<\$ 1,706.00>  
Total Required ..... <\$ 37,000.00>  
  
Total Funds Available, 101b. CRP: ..... \$ 100,000.00  
Balance Remaining ..... \$ 63,000.00

- 2. Bids – Solicitation GS-2006-01, Furnishing and Delivery: 1. One (1) ½-ton pickup; 2. One (1) ½-ton extended cab pickup with accessories; 3. One (1) ½-ton extended cab pickup with accessories; 4. One (1) sport utility vehicle; 5. One (1) 15,000 lbs. gvwr 4 x 4 cab & chassis with service body; 6. One (1) 15,000 lbs. gvwr 4 x 4 cab & chassis with service body & accessories**

FUNDING:

6 Vehicles, Account No. 106, Vehicles and Equipment.....\$282,000.00

- 3. Job No. WK-23, Surveying and Mapping Contract, Water Plan 2020 Project No. WK-23, DOW Job No. 93-1, 250,000 Gallon Storage Tank and Connecting Pipeline, Wailua Water System, Wailua, Kauai**

FUNDING:

Total Funds Available, 301 FRC-CIP, Wailua, UH Tank, WK-23 .... \$100,000.00

Job No. 93-1 (WK-23) Surveying and Mapping  
 Contract, Water Plan 2020 Project No. WK-23,  
 DOW Job No. 93-1, 250,000 Gallon Storage Tank  
 and Connecting Pipeline, Wailua Water System,  
 Wailua, Kauai. ....<\$ 47,773.00>  
 Contingency.....<\$ 2,400.00>  
 Total Required ..... <\$ 50,173.00>

Total Funds Available, 101b. CRP: ..... \$ 100,000.00  
 Balance Remaining ..... \$ 49,827.00

PUMP INSTALLATION PERMITS SIGNED BY MANAGER:

Hanamā'ulu Well No. 4, State Well No. 0124-03 – Contractor is Beylik Drilling & Pumping Svc., Inc.

Affordable Housing Project Update:

1. DHHL – Kekaha – No update to report
2. DHHL – Anahola Residence Lots Unit 6, “Pi’ilani o Kekai, Phase 1: Ground breaking for Phase 1 was done last week
3. Habitat - Eleele I Luna Subdivision Phase 1: No update to report
4. Ho’okena At Puhī: DOW signed building permits
5. Puhī Self Help Subdivision- No update to report
6. Kauai Lagoons – Waipouli Courtyard- Remaining conditions not completed include construction plan approval, certification of completion issuance by DOW and payment of FRC.

On query by Ms. McCrory, Mr. Keith Fujimoto stated that the pipeline design plans for the Stable Tank are not with us yet. The EA has already been reviewed by the DOW.

7. Kauai Lagoons – Kapule Project: The Board supported the DOW condition for the submittal of water demand calculations to determine the remaining capacity of the existing water meters serving the Kauai Lagoons site and to determine the available meter capacity for the affordable housing project.

Council requested the Department's presence at its September 6<sup>th</sup> meeting to respond to questions regarding Kauai Lagoon's water demand and infrastructure requirements. (A DOW response letter to Councilmember Yukimura's questions was given to the Board.)

On query by Ms. McCrory, Mr. Doi stated that the building permit is not with the DOW yet, which is when they would pay the applicable FRC. On query by Ms. McCrory, Mr. Doi stated that the water master plan has not been submitted yet.

8. KEO Transitional Housing Project Phase I & II – Phase 1 is underway. Phase II: KEO submitted letter to Acting Mgr requesting waiving water meter requirement. The DOW is currently drafting the reply.

DPW will not be issuing the Phase II BP without DOW approval of the BP. In response to DOW concern of pre-mature issuance of the BP, Building Division said that this may occur if there is administrative directive to move BP forward. DPW County Engineer said that he prefers that a written agreement or documentation be completed prior to any pre-mature BP issuance. DOW stated that pre-mature BP issuance will effect DOW requirement negatively and recommended that a written understanding between DPW and effected agencies be prepared in order for all parties to understand what is going on. If this is communicated, the DOW may be able to adjust its rules and procedures accordingly.

Acting Manager Ushigome stated that we have not received their water master plan yet.

9. County/State parcel affordable housing projects
  - a. Kekaha , Kaapuni, Mahelona, Hundley Project sites:
  - b. State land division is not willing to offer additional parcels for affordable housing until County shows progress on existing 8 parcels
  - c. Kapaa Landscaping Baseyard site: County Engineer was not aware of the plan to relocate the beautification crews from this site in order to convert to affordable housing use.

Next Meeting: State Lands and Affordable Housing Task Force Meetings will be combined and will be held on Monday, September 25, 2006; 10:00AM- 11:30AM at the Lihue Civic Center, Pi'ikoi Meeting Room A

**Hawaii Employers Council:** The Department submitted its membership application to the Hawaii Employers Council. As we move forward, we eagerly anticipate and plan to identify pertinent training and support services provided by the Council.

**USGS Well Drilling Progam's Liquidation of Assets:** The USGS has terminated its well drilling program and has left the drill rig and appurtenances at the Big Island's Panaewa Baseyard. Since the bulk of the drill rig equipment was "abandoned" on the Big Island, the Big Island Department of Water is proposing to be the lead agency responsible for the sale

and distribution of proceeds to each of the three counties. A list of the items along with the suggested value of these items was sent to the Department for review.

Based on the review and inspection of the equipment, it was agreed that if any of the partnering counties (Big Island, Maui, and Kauai) wanted or could utilize any component of the drill rig equipment, then prior to auctioning off the items, allowing the partners to acquire the usable assets in this manner made sense. The remaining items would be sold and the proceeds from the sale (minus the suggested value of any piece of equipment received) would be divided among the three counties. Luckily, none of the counties wanted the same pieces of equipment.....the Department requested the welder and 40-foot storage container, the suggested value of these items were \$2,500 and \$3,500, respectively.

Again, the Big Island Department of Water Supply will prepare the specifications, advertise (statewide) for bids (was in the Thursday, September 14, 2006 issue of The Garden Island), and collect the payment from the highest bidder. The proceeds will be divided equally, and miscellaneous expenses associated with the sale of the drill rig shall be documented and shared equally among the three departments. The respective departments shall also be responsible to pay all shipping and related costs for the items they selected.

**Hawai'i Water Works Association (HWWA) Conference:** The HWWA Conference date, place, agenda and speakers have been finalized and conference packets have been sent. You should have received a packet by now; if not, please let us know. We have been receiving registrations forms with a tentative count of about 60 conferees so far. We anticipate more to come in the next couple of weeks since we did send out our packets a little late.

We will be submitting full conference registrations for Lynn McCrory, Bernie Sakoda, Myles Shibata and Ian Costa. Lynn has volunteered to moderate at Thursday's Board session, Bernie for the Wednesday session and Myles for Friday's session. Joey, Steve and Donald send their regrets that they are unable to attend the conference; however, Donald will be able to attend only Wednesday's session and Board dinner. Thank you for your continued support of the Kaua'i DOW as we are the host of this annual conference.

Received for the record.

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

This matter was already taken care of in Committee Meetings.

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

This matter was already taken care of in Committee Meetings.

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

This matter was already taken care of in Committee Meetings.

Recess: 12:45 p.m. to 12:50 p.m.

**Re: Strategic and Business Plan and Needs Assessment for the Kaua'i County Water Department**

Acting Manager Ushigome reported that as part of our contract amendment to RW Beck's contract, RW Beck would be assisting the Department of Water with 4 projects. The projects are:

**Recommendations:** The Department requests the Board review Amendment No. 2 to RW Beck's Professional Services Contract for Strategic and Business Plan and Water Plan 2020 Program Sustainability Services, Affordable Housing Water Plan 2020 Project. We recommend that RW Beck provide further clarification at the September Board meeting on their scope of services and identify that they will be capable and able to accomplish completing the five (5) WP2020 projects by December 2008.

As requested at the August Board meeting, RW Beck submitted the following items:

- Governance Policies of the Water Board;
- Letter from RW Beck recommending Moss Adams be retained by the Department to complete the Time Entry Process Assignment (See attached Moss Adams' Time Entry Process Assessment proposal and references dated September 10, 2006), and;
- Amendment No. 2 to Professional Services Contract for Strategic and Business Plan and Water Plan 2020 Program Sustainability Services, Affordable Housing Water Plan 2020 Projects.

Again as a reminder to the Board members, RW Beck plans to conduct monthly updates with the Board to report on the progress of the Strategic and Business Plan. These monthly reports will summarize the outcome and findings of the various Core Planning Team (CPT) meetings. Also, each of the monthly update sessions with the Board is anticipated to take about 2 hours. Please set aside from 10:00 a.m. to 3:00 p.m. on your calendar to accommodate the Board meeting and update/workshops with RW Beck's, unless otherwise notified. Tentatively, the Strategic and Business Plan updates should be complete by the November 2006 Board Meeting.

Mr. Jochim and Mr. Cutting were present at the meeting to give the Board an update of the Strategic Plan process with the Core Planning Team (CPT) that is made up of staff members. Mr. Jochim stated that the CPT has identified 5 departmental issues to work on to resolve as part of the Strategic Plan process. Some of the CPT members have either volunteered or have been designated as champions or co-champions who will work on each of the 5 issues. The 5 issues are:

1. DOW's Morale must be improved: Co-champions Faith Shiramizu and Keith Aoki
2. Strong & Qualified Workforce must be attracted and retained: Deb Togioka and Dustin Moises
3. Safe & Reliable Water Supply must be assured: Carl Arume and Bruce Inouye
4. Workplace efficiencies must be improved: Rona Miura and Paul Ganaden
5. Accountability & commitment must be instilled throughout the organization: William Eddy

The Board expressed their thanks to the champions and co-champions.

The CPT had previously drafted Strategies to plan how the issues could be resolved. At yesterday's CPT meeting, the Tactics were also fine tuned to express specifically what the CPT co-champions would work on to resolve the issues. The CPT also worked on identifying key performance indicators (KPI) for each of the 5 issues. KPI is basically a tool to graph and track progress to visually show progress to staff, Board, Council, etc.

The core values were also briefly reviewed and revised by the CPT and submitted to the Board for their review. Along with the list of core values, an abbreviated draft list was also drafted that could be printed on a small card that everyone could carry with them as reminders.

Double underlined is for additions and [brackets] are for deletions.

- Integrity forms the foundation for all DOW's activities and its employees.
- Initiative: Every DOW employee takes initiative within their area of responsibility.
- Leadership and teamwork are critical for achieving Water Plan 2020.
- We demonstrate respect for one another in all our interactions.
- Our community is best served when you [strive] achieve for excellence.

Mr. Cutting stated that it is important for Board, management and staff to follow these values with the Board leading by example. These values should also be part of all employees' job descriptions.

Mr. Costa suggested to add "and its employees" at the end of the Integrity statement. It was so noted. Ms. McCrory suggested to replace "strive" with "achieve" on the last statement. It was so noted.

Mr. Jochim stated that they worked with the CPT on a vision statement, which is different from a mission statement and would include, "where do we want to be as an organization at some future date?" The draft vision statement is: "The DOW is committed to provide, safe, affordable and sustainable [sufficient] drinking water while proactively being responsive to community needs."

Acting Manager Ushigome stated that the CPT wanted the word proactive to be in the statement. It was so noted. Mr. Costa also suggested to have the word sustainable instead of sufficient. It was so noted.

Mr. Jochim added that for the Strategic Plan process, they have 3 more workshops with the CPT. The next workshop dates are October 4, 18, and November 1, 2006. A rough draft of the Strategic Plan will be ready to review at the October 17, 2006 Board Meeting and October 18, 2006 CPT Workshop. Any revisions made will be reviewed again at the November 1<sup>st</sup> CPT workshop. A final draft of the Strategic Business Plan will submitted at the November 21, 2006 Board Meeting.

The draft abbreviated core values and draft vision statement will be communicated to all of the DOW staff at the next All Hands Meetings on Tuesday, October 17, 2006, the same day as the next Board Meeting.

Mr. Jochim asked for suggestions for the implementation of this plan and will be submitting a scope of work at the October 17<sup>th</sup> Board Meeting on how RW Beck could help the DOW with the implementation process. Ms. McCrory wanted the implementation plan process to be finalized soon even if the starting date is January, 2007. She understood that the holiday season is upcoming and a lot of employees take their annual vacations during the month of December. Acting Manager Ushigome concurred that a lot of employees need to use their vacation time unless they will lose it.

Mr. Jochim added that the extra time could be used to work with the co-champions to get organized and to have work plans in place.

Mr. Jochim stated that RW Beck is planning on bringing in their team to work on the Affordable Housing Projects and the Program Sustainability activities the week of October 16<sup>th</sup> and stay through the week of October 23<sup>rd</sup>. They have been working with Acting Manager Ushigome on coordination of having RW Beck's team to go to Oahu to work with our project design consultants.

Mr. Jochim added that in order for RW Beck to proceed with the Affordable Housing Projects and Program Sustainability they would need both an approval of the proposed Amendment No. 2 and a Notice to Proceed.

Acting Manager Ushigome stated that she still had to draft the contract amendments, which would still need to have legal review.

Ms. McCrory moved to approve Amendment No. 2 for the Affordable Housing Step 1 activities at \$65,000 to RW Beck, seconded by Mr. Costa; motion was carried.

On query by Ms. McCrory, Acting Manager Ushigome stated that staff would work on the notice to proceed letter.

Ms. McCrory stated that she was really impressed that the CPT included in the vision statement for the DOW to be responsive to community needs.

It was noted that Ms. McCrory's appearance at a previous CPT workshop made an impact on the CPT that they need to work towards making the DOW an even better workplace.

Mr. Jochim and Mr. Cutting further conducted a Board Workshop on the Strategic Plan after the adjournment of this Board Meeting.

**Re: TOPICS FOR NEXT WATER BOARD MEETING**

1. Board's Finance, Public Affairs, and Rules Committee Meetings
2. Strategic Plan Update

**Re: TOPICS FOR FUTURE WATER BOARD MEETINGS**

1. Board's Finance, Public Affairs, and Rules Committee Meetings
2. Kauai County Water Department Briefing on Departmental Projects (October, 2006)
3. Kaua'i County Water Department's Final list of CIP Projects for which funding is requested from the 2006 Hawai'i Legislature (October, 2006)
4. Approval of Board's Resolution No. 2, Legislative Budget for Fiscal 2007-08 (October, 2006)
5. Quarterly Report regarding Kaua'i County Water Department Manager's Top 4 Goals for 2006
6. Tentative Water Board Meeting Dates for the Year 2007 (November, 2006)

**Re: NEXT WATER BOARD MEETINGS**

1. Tuesday, October 17, 2006, 10:00 a.m.
2. Tuesday, November 21, 2006, 10:00 a.m.
3. Thursday, December 14, 2006, 10:00 a.m.

**Re: WATER BOARD'S UPCOMING EVENTS**

1. Department of Water's Make-A-Splash Festival (September 22, 2006)
2. Hawai'i Water Works Association Conference (October 11-13, 2006)
3. DOW's Annual Employee Meeting & Brunch (December 14, 2006)

**Re: EXECUTIVE SESSION**

There was no Executive Session Meeting.

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

1. **Review of Executive Session Minutes - None**
2. **Executive Session**

**ES-1:** Pursuant to Haw. Rev. Stat. §§92-4, 92-5(a)(4), the purpose of this executive session is to permit the Board of Water Supply to deliberate upon and consult with the Board's legal counsel on questions and issues relating to any topics on this Board Meeting agenda.

This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Board and the Department of Water as they relate to this agenda item.

The Board may take any appropriate action or make any decision arising from its deliberations concerning this item, including approval or modification of the proposed settlement in this case. Actions may be taken or decisions may be made in executive session pursuant to Haw. Rev. Stat. §92-5(b).

**ADJOURNMENT**

There being no further business, Mr. Costa moved to adjourn the meeting at 1:15 p.m., seconded by Mr. Fujimoto; motion was carried.

Respectfully submitted,

Rona Miura, Secretary

APPROVED:

Wynne M. Ushigome  
Acting Manager and Chief Engineer

rm