

## MINUTES

### DEPARTMENT OF WATER SUPPLY COUNTY OF HAWAI'I WATER BOARD MEETING

February 28, 2006

#### WAIMEA COMMUNITY CENTER

MEMBERS PRESENT: Mr. Loren Heck, Chairman  
Mr. Thomas Goya, Vice-Chairman  
Mr. George Harai  
Ms. Paula Helfrich  
Mr. Ivan Mochida  
Mr. Riley Smith  
Mr. George Wilkins  
Ms. Millie Kim  
Mr. Milton D. Pavao, Manager, Department of Water Supply  
(ex-officio member)

ABSENT: Mr. Bernard Konanui, Water Board Member  
Mr. Bruce McClure, Director, Department of Public Works  
(ex-officio member)  
Mr. Christopher Yuen, Director, Planning Department  
(ex-officio member)

OTHERS PRESENT: Ms. Katherine Garson, Deputy Corporation Counsel  
Ms. Amy Self, Deputy Corporation Counsel  
Mr. Koji Nakamura, Mauna Lani Service, Inc.  
Mr. Ken Karahashi, Mauna Lani Service, Inc.  
Mr. Tom Shibata, Tokyu Corp.  
Mr. Tom Nance, Tom Nance Water Resource Engineering  
Ms. Dianne Morgado  
Mr. Jim Stutheit (10:30 a.m.)

#### Department of Water Supply Staff

Mr. Quirino Antonio, Jr., Deputy Manager  
Mr. Glenn Ahuna, Engineering Division Head  
Mr. Daryl Ikeda, Chief of Operations  
Mr. Richard Tsunoda, Waterworks Controller  
Ms. Lynn Hirano, Finance Division  
Mr. Richard Sumada, Assistant Waterworks Controller  
Mr. Lawrence Beck, Engineering Division  
Mr. Kurt Inaba, Engineering Division

CALL TO ORDER - Chairman Heck called the meeting to order at 10:00 a.m. and welcomed Mr. George Harai, the Board's newest member, who had also served on this Board previously. He replaces Ms. Scarr.

#### STATEMENTS FROM THE PUBLIC

None

#### APPROVAL OF ADDENDUM

ACTION: Mr. Goya moved to add Addendum items Miscellaneous (H)1 and Miscellaneous Item (Q) to the Agenda; seconded by Ms. Kim and carried unanimously by roll call vote (Ayes: 8 - Mss. Kim and Helfrich; Messrs. Goya, Harai, Mochida, Smith, Wilkins and Chairman Heck; Nays: 0; Absent: 1 - Mr. Konanui).

#### APPROVAL OF MINUTES

ACTION: Mr. Goya moved for approval of the Minutes of the January 24, 2006, Water Board Meeting; seconded by Ms. Helfrich and carried unanimously by voice vote.

*(There being no objections, the following items were taken up early)*

#### MISCELLANEOUS

#### **H. TRI-PARTY WATER DEVELOPMENT AGREEMENT - MAUNA LANI SERVICES, INC., MAUNA KEA PROPERTIES, AND DEPARTMENT OF WATER SUPPLY:**

---

Mauna Lani Services (MLS) and Mauna Kea Properties (MKP) desire to develop Parker 3 and 4 Wells and related infrastructure that will connect to the existing Department of Water Supply's (DWS) Lalamilo Water System. These improvements, critical to providing water to the lands previously owned and assured of water commitments from MLS/MKP (Exhibits 1 and 2), include the following (Exhibit 3):

- Two (2) 1,250 gpm deep wells,
- Two (2) 2.0-M.G. prestressed concrete tanks (1,103' and 610' elevations),
- 18,400 lf ductile iron pipe, and
- other appurtenances.

These improvements, totaling approximately \$15 million when completed, will be dedicated to the Water Board and operated by DWS. As MLS/MKP are solely funding this, the Agreement stipulates that they will be allocated ninety percent (90%) and DWS ten percent (10%) of the water.

The Manager recommended that the Water Board accept the terms and conditions of the Agreement and authorize either the Chairman or the Vice-Chairman to execute the Agreement subject to review and acceptance by the Office of the Corporation Counsel as to form and legality.

MOTION: Ms. Kim moved for approval of the Manager's recommendation; seconded by Mr. Mochida.

Mr. Smith declared that he is employed by Parker Ranch, and these wells are on Parker Ranch property. It was an agreement made between the owner of Parker Ranch (Richard Smart) and Mr. Brown, who, at the time, owned Mauna Lani. It does not involve anything that Parker Ranch is doing other than the wells are on their property so he would be voting on this matter.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

H.(1) **ESCROW AGREEMENT**:

*(Addendum Item)* This is the Escrow Agreement that is referred to in the Tri-Party Agreement in Item 10(H). Pursuant to the Tri-Party Agreement, the parties agreed to establish two separate escrow accounts (Mauna Lani Services' Escrow and Mauna Kea Properties' Escrow) for the payment of costs of constructing and installing the Parker 3 and 4 Improvements.

The Manager recommended that the Water Board accept the terms and conditions of the Agreement and authorize either the Chairman or the Vice-Chairman to execute the Agreement subject to review and acceptance by the Office of the Corporation Counsel as to form and legality.

ACTION: Mr. Smith moved for approval of the Manager's recommendation; seconded by Ms. Kim and carried unanimously by voice vote.

O. **MANAGER'S REPORT**:

6. Retiree of the Department of Water Supply - Mr. Glenn Ahuna

Mr. Ahuna was congratulated by the Board; he is retiring as of tomorrow, March 1, 2006, from his position as Engineering Division Head. The Manager stated that Mr. Ahuna has been with the Department since March 1, 1995, starting as Civil Engineer IV. On May 1, 1996, he was promoted to Civil Engineer V. On March 17, 2003, he was promoted to Civil Engineer VII (Engineering Division Head), the position that he has held until this date. That position is a very key role in the Department because it means responsibility for the entire Engineering Division, which gets intimately involved with developers, contractors, etc. Mr. Ahuna brought to this Department a tremendous knowledge of the water systems, negotiating skills, and relationships with the developers. He is a wonderful worker and very modest. The Manager stressed that Mr. Ahuna has been a tremendous asset to the Department and will be missed very much. As a Manager, Mr. Ahuna exemplifies the kind of employee that you dream of having. He thanked Mr. Ahuna for all his hard work.

Mr. Ahuna thanked the Board and the Department for having him as Engineering Division Head for the last three years. He mentioned the transition to the next person who will occupy the position and introduced Mr. Kurt Inaba, who will be the new Engineering Division Head, effective March 1, 2006. He commented that Mr. Inaba will be wonderful in the position and has a lot of experience with the Department.

The Manager added that Mr. Inaba has a very good history with the Department, which counts a great deal in the new post he will occupy. Knowledge and history are essential to making good decisions.

*(The Board continued with the rest of the Agenda.)*

PUNA:

A. **JOB NO. 2003-833, ÔLA‘A NO. 3 DEEP WELL REPAIR:**

Bids for this project were opened on February 10, 2006, at 2:00 p.m.; and the results were enumerated in the Agenda. This project consists of replacement of submersible pump, motor, column pipe, power cable, and appurtenances at Olaa #3 Deep Well. The bid amount is considered reasonable for the scope of work. Funding for this project will be from the Deep Well Pump Replacement budget. The contractor will have 180 calendar days to complete this project.

The Manager recommended that the Board award the contract for JOB NO. 2003-833, ÔLA‘A NO. 3 DEEP WELL REPAIR, to the lowest responsible bidder, Beylik Drilling & Pump Service, Inc., for their bid amount of \$225,819.50 plus \$22,680.50 in construction contingency for a total contract amount of \$248,500.00, and that either the Chairman or the Vice-Chairman be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

MOTION: Mr. Mochida moved for approval of the Manager’s recommendation; seconded by Mr. Goya.

In response to a question of why there was only one bid, the Manager replied that one of the two contractors who filed Intent to Bid picked up the plans but decided not to place a bid. Those listed in the Agenda are contractors who file their Intent.

In response to Mr. Wilkins’ question of how many qualified drillers are in the area, the Manager replied there used to be four, but Waieli Drilling & Development sold out to Beylik Drilling & Pump Service, Inc. The other two are Water Resources International and Mel’s Water Works. Actually, Mel’s Water Works is an offshoot of Beylik Drilling. They are all reputable contractors.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

SOUTH HILO:

A. **JOB NO. 2004-840, HAAHEO WATER SYSTEM IMPROVEMENTS:**

The Board considered a request from the contractor, Inaba Engineering, Inc., for a time extension of 120 calendar days due to delays in completing the field survey of the pipeline route and alignment. Engineering staff has reviewed this second time extension request and finds that the 120 calendar days are justified.

The Manager recommended that the Board grant this extension of contract time of 120 calendar days to Inaba Engineering, Inc., for JOB NO. 2004-840, HAAHEO WATER SYSTEM IMPROVEMENTS. If approved, the contract completion date will be extended from January 29, 2006, to May 29, 2006.

MOTION: Mr. Goya moved for approval of the Manager's recommendation; seconded by Mr. Wilkins.

Mr. Smith commented that for this type of project, Inaba Engineering is actually filling the role of consultant for professional design services. He recommended that in the description, a distinction be made between consultant and contractor.

The Manager stated that a consultant contract is for the duration that the project actually takes until the work is completed. However, due to some unforeseen reason, when staff placed termination times on the contract, they put it in for the design services. That means there are more contracts that he wants to bring back to the Board in bulk for approval because for whatever reason, the construction period goes longer than the consultant contract so actually, the contract should be finished but is not. It is not the fault of the consultant. It is because of the way the contract is written.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

HAMAKUA:

A. **JOB NO. 2005-866, AHUALOA WELL DEVELOPMENT – PHASE 1:**

The contractor, Tom Nance Water Resource Engineering, Inc. (TNWRE), has requested that their total contract price for consultant services be amended to include funding for reimbursable expenses (airfare and car rental). Their total estimate for reimbursable expenses is \$1,750.00. TNWRE included this estimate for reimbursable expenses in their original proposal, but these costs were not included in the "Payment to Consultant" section of the consultant agreement. Engineering staff has reviewed the request and finds that \$1,750.00 for reimbursable expenses is justified. This project is NOT on the Department's 5-year C.I.P. list.

The Manager recommended that the Board grant the addition of \$1,750.00 to Tom Nance Water Resource Engineering, Inc.'s, total contract price for JOB NO. 2005-866, AHUALOA WELL

DEVELOPMENT – PHASE 1. If approved, the total contract price will be changed from \$73,421.00 to \$75,171.00.

ACTION: Mr. Mochida moved for approval of the Manager’s recommendation; seconded by Ms. Kim and carried unanimously by voice vote.

**B. KUKUIHAELE WELL “A” (REPLACE WAIULILI SPRING), PROJECT NO. DW133-0001; DRINKING WATER TREATMENT REVOLVING LOAN FUND:**

The Department intends to utilize the State Drinking Water Treatment Revolving Loan Fund program administered by the State of Hawai‘i, Department of Health, to fund this project. Supplemental Loan Agreement No. 1 outlines the conditions of the loan program specific to this project.

The Manager recommended that the Board approve Supplemental Loan Agreement No. 1 for Kukuihaele Well “A” (Replace Waiulili Spring), Project No. DW133-0001, and that either the Chairman the Vice-Chairman be authorized to sign the Agreement, subject to review and approval by Corporation Counsel.

ACTION: Ms. Kim moved for approval of the Manager’s recommendation; seconded by Mr. Smith and carried unanimously by voice vote.

**NORTH KOHALA:**

**A. JOB NO. 2003-815, AGREEMENT FOR CONSULTANT SERVICES - CONSTRUCTION OF THE KOKOIKI 0.1-M.G. CONCRETE RESERVOIR:**

Mitsunaga & Associates, Inc., has submitted a change order proposal for additional work. The additional work involves providing the necessary professional services (engineering design and field survey) to construct 4,800 lineal feet of 6-inch diameter waterline along the Akoni Pule Highway to transmit water from the proposed Kokoiki 0.1-M.G. Concrete Reservoir to the Puakea Bay Ranch Subdivision. The 6-inch waterline was found to be a feasible solution to eliminate the anticipated reduction in water pressure and flow capability of the existing Hawi-Kokoiki water system, should the existing water system have been connected to the proposed 0.1-M.G. concrete reservoir. The reservoir will be located at a lower elevation than the reservoir that is currently servicing the Hawi-Kokoiki water system. Staff has reviewed the proposal and recommends acceptance of the items, in the amount of \$28,100.00. Funds for the additional work are available the Department’s C.I.P. funds.

The Manager recommended that the Board approve Change Order No. 1, as submitted by Mitsunaga & Associates, Inc., for a total amount of \$28,100.00 for JOB NO. 2003-815 AGREEMENT FOR CONSULTANT SERVICES - CONSTRUCTION OF THE KOKOIKI 0.1-M.G. CONCRETE RESERVOIR, and further that the contract completion date be extended by 77 calendar days to July 31, 2007.

MOTION: Mr. Wilkins moved for approval of the Manager's recommendation; seconded by Mr. Mochida.

Mr. Smith asked why the Department is providing a waterline to a subdivision that is completed.

The Manager replied that there was an agreement between the Department and the subdivision, which allowed for an account to be held by this Department to put up the waterline. They provided \$300,000.00, which sat in an account of this Department since the 1980's. This type of thing would not normally be done, but it came about as a result of that agreement. Their attorneys had brought it to the Department's attention.

In response to Mr. Smith's question if it provides increased service opportunities for other adjoining land owners, the Manager replied it will basically serve that subdivision because one of the issues in that subdivision was pressure and capacity.

In response to Mr. Wilkins' question if the Akoni Pule Highway is a State highway and if they would have problems laying pipe under that highway, the Manager replied that the consultant will have to deal with the State to get the permits.

In response to Chairman Heck's question if the money covers the cost of the project, the Manager replied that the Department had to supplement a little. At the time the agreement was made, it would have been enough.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

#### NORTH KONA:

#### **A. JOB NO. 2001-785, CONSTRUCTION OF THE WAIAHA PRODUCTION WELL AND 2.0-MG RESERVOIR:**

The Board considered a fifth contract time extension request from the contractor, Isemoto Contracting Company, Ltd., of 31 calendar days to allow for acquiring the Supervisory Control and Data Acquisition (SCADA) program from the Department of Water Supply and for the additional time to correct the discrepancy in the contract documents concerning the pump control equipment. Staff finds the request to be justified. Previous extensions were listed in the Agenda.

The Manager recommended that the Board grant Isemoto Contracting Company, Ltd., a 31-calendar day extension for JOB NO. 2001-785, CONSTRUCTION OF THE WAIAHA PRODUCTION WELL AND 2.0-MG RESERVOIR, from January 28, 2006, to February 28, 2006.

MOTION: Mr. Wilkins moved for approval of the Manager's recommendation; seconded by Mr. Mochida.

Ms. Kim mentioned that she thought this project was completed.

The Manager explained that it is essentially completed, and the Department is able to use the system. However, he has not seen one project where the SCADA did not cause a delay. It does not, however, hamper the ability to use the system.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

MISCELLANEOUS:

**A. DEDICATION OF WATER SYSTEMS:**

The Department received the following documents for action by the Water Board. The water systems have been constructed in accordance with the Department's standards and are in acceptable condition for dedication.

1. **GRANT OF EASEMENT AND BILL OF SALE**  
HAKALAU PLANTATION VILLAGE, LLC  
Subdivision Application No. 2004-042  
Grantor: Hakalau Plantation Village, LLC  
TMK: (3) 2-9-002:024  
E.W.O.: 2005-079  
Lots: 21 - plus 1 Road Lot                      Zoning: RS 7.5  
Facilities Charge: \$116,690.00              Paid: 2/11/2005  
(1-Lot @ \$1,190.00)  
(21-Lots @ \$5,500.00)  
Final Inspection Date: 01/04/2006  
Water System Cost: \$103,950.00
  
2. **GRANT OF EASEMENT AND BILL OF SALE**  
SUBDIVISION OF LOT 8  
Subdivision Application No. 2004-050  
Grantor: Hart of Kona Realty, Inc.  
TMK: (3) 8-2-015:006  
E.W.O.: 2005-082  
Lots: 4                      Zoning: RS 10  
Facilities Charge: \$7,200.00 (1-inch meter Paid 4-units) Paid: 6/17/91  
(4-Units @ \$1,800.00)  
Final Inspection Date: 12/21/2005  
Water System Cost: \$33,302.00
  
3. **GRANT OF EASEMENT AND BILL OF SALE**  
SUGAR CANE LANE SUBDIVISION  
Subdivision Application No. 2004-070  
Grantor: Uluwehi Properties, LLC  
TMK: (3) 7-5-017:021  
E.W.O.: 2005-078  
Lots: 21                      Zoning: RS - 15  
Facilities Charge: \$110,000.00 (20-Lots @ \$5,500.00) Paid: May 2, 2005

Capital Assessment Fee: \$10,000.00 (20-Lots @ \$500.00) Paid: May 2, 2005  
Final Inspection Date: 02/07/2006  
Water System Cost: \$198,421.00

4. **GRANT OF EASEMENT AND BILL OF SALE**  
LUALAI SUBDIVISION AT PARKER RANCH, PHASE 2  
Subdivision Application No. 2003-046  
Grantor: Kaomalo LLC  
TMK: (3) 6-7-021: portion 061  
E.W.O.: 2005-021  
Lots: 87 (Phase 2 - 84; Phase 3 - 3) Zoning: RM - 5; RS - 7.5  
Facilities Charge: \$186,615.00 (87 units @ \$5,500.00 less 61% credit)  
Final Inspection Date: 2/16/2006  
Water System Cost: \$281,911.40
  
5. **PARTIAL WITHDRAWAL FROM GENERAL LEASE NO. S-5539**  
**PROPOSED KOKOIKI RESERVOIR SITE**  
Lessor: State of Hawai'i, by its Board of Land and Natural Resources  
Lessee: William T. S. Wong  
TMK: (3) 5-5-004:portion 051

This document withdraws approximately 0.50-acre portion of land from General Lease No. S-5539 to William T. S. Wong, which in turn will be set aside through a Governor's Executive Order to the Water Board of the County of Hawai'i.

The Manager recommended that the Water Board accept these documents subject to the approval of the Corporation Counsel and that either the Chairman or the Vice-Chairman be authorized to sign the documents.

**MOTION:** Mr. Goya moved for approval of the Manager's recommendation; seconded by Ms. Kim.

Mr. Smith noted that he would be abstaining from voting on Item No. 4, Grant of Easement and Bill of Sale for Lualai Subdivision at Parker Ranch, Phase 2.

In response to Mr. Harai's question about Item No. 3, the reason for the \$10,000.00 capital assessment fee, the Manager replied that it was one of those projects where the capital assessment fee was still in place. The Department no longer has capital assessment fee; but because this project started when it was still in effect, it applies.

Mr. Harai also asked about Item No. 4, the facilities charge 61% credit for Lualai Subdivision at Parker Ranch, Phase 2.

The Manager explained that the credit was because Parker Ranch did certain improvements; and according to the Department's Rules and Regulations for certain system components that you do, you get a percentage off the facilities charge.

ACTION: A vote was taken on the Motion to accept Items 1, 2, 3, and 5 (and Item No. 4 with the abstention of Mr. Smith). Motion carried unanimously by voice vote (with the exception of Item 4 - Ayes: 7 and one abstention: Mr. Smith).

**B. GASOLINE BID NO. 2004-04, FURNISHING AND DELIVERING GASOLINE AND DIESEL TO THE DEPARTMENT OF WATER SUPPLY - PARTS A, B, AND C:**

Due to the increase in gas prices, which is allowed by contract, the Department of Water Supply will be experiencing a shortage in the contract amount with Hawaii Petroleum, Inc. The gas prices have risen from the contract amount of \$1.8167/gallon for Part A (Hilo Baseyard), Part B (Kona Baseyard), and Part C (Waimea Baseyard) to \$2.2250/gallon for Hilo Baseyard and \$2.2440/gallon for the Kona and Waimea Baseyards. The price for diesel has risen from the contract amount of \$1.6995/gallon to \$1.9431 at the Kona Baseyard.

At the present rate of usage, which will be projected until the end of the fiscal year (June 30, 2006), it is estimated that the Department will require an additional \$50,000.00 to provide gasoline and diesel for the Department's vehicles.

The Manager recommended that the Board award an additional \$50,000.00 to Hawaii Petroleum, Inc., for GASOLINE BID NO. 2004-04, FURNISHING AND DELIVERING GASOLINE AND DIESEL TO THE DEPARTMENT OF WATER SUPPLY - PARTS A, B, AND C. The contract will increase from \$315,637.00 to \$365,637.00.

ACTION: Mr. Wilkins moved for approval of the Manager's recommendation; seconded by Mr. Harai and carried unanimously by voice vote.

**C. PUBLIC RELATIONS SPECIALIST, PUBLIC RELATIONS BRANCH - ADMINISTRATION DIVISION:**

The Department proposes to amend its Table of Organization to create a **Public Relations Branch** with a **Public Relations Specialist** position. The branch and position are necessary in light of increasing issues that require interaction with the public and internally. The Water Board and the Department adopted its Strategic and Business Plan in 2004. The plan needs to be implemented, tracked, and updated.

Generally, the duties of the position are summarized as follows: plans, develops, and conducts a comprehensive public information program, that includes a variety of informational, educational, and interpretive activities, for a major operating department; maintains effective working relationships with members of the media, community groups, and other individuals in the public and private sectors; and performs other related duties as required. Sample duties will include public relations and strategic and business plan responsibilities.

Subject to consultation with Civil Service and the affected Union, the position is proposed to have a salary rating of SR-24 in Bargaining Unit 13. The salary range is \$45,840.00 to \$65,256.00. The intent is to recruit the position as soon as approvals from Civil Service and the Union are received.

The Manager recommended that the Water Board approve the amendment to the Table of Organization to create the Public Relations Branch and the Public Relations Specialist.

MOTION: Mr. Goya moved for approval of the Manager's recommendation; seconded by Mr. Kim.

Ms. Kim asked if there was a reason for the position to be titled Public Relations Specialist and if it was more than a public information officer.

The Manager replied that it is more in public relations.

In response to Mr. Wilkins' question if this person would be expected to have engineering skills in order to answer any type of questions and have an understanding, the Manager replied it would not include engineering skills. In doing so, the position description would have to be changed and subject to acceptance by Civil Service.

In response to Mr. Harai's question if the other counties have this type of position, the Manager replied that Oahu and Maui have. Kauai did, but the person took a position with someone else so they are probably recruiting.

The Deputy Manager added that the duties of the position include carrying out the Strategic and Business plans. In not having this person in place already, the Department fell back on the progress.

In response to Chairman Heck's question of whether this person would be the communicator between R. W. Beck, Inc., and personnel, the Deputy Manager replied they would communicate with the Department's consultants, the Board, and the public. The person will be very important in communications.

Mr. Goya asked what the timetable is.

The Manager replied that the Board has stressed its interest in getting the person as soon as possible, so the Department will work with Civil Service in an effort of doing so. It is in the budget.

ACTION: A vote was taken on the Motion. Motion was carried unanimously by voice vote.

**D. GROUND RENT FOR LALAMILO WIND-FARM, SOUTH KOHALA, HAWAI'I (G.L. NO. S-5240), TAX MAP KEY 6-6-01:02(PORTION):**

General Lease S-5240 provides for re-determining the annual rent for the next five years beginning December 14, 2005. The Land Division of the State of Hawai'i, Department of Land and Natural Resources, has determined that the fair market rent should be \$6,400.00 per year. The previous amount was \$3,878.00. Inasmuch as Hawaii Electric Light Company, Inc. (HELCO), operates and maintains the windfarm, HELCO will be reimbursing the Department the full amount of the rent.

The Manager recommended that the Water Board accept the rent amount of \$6,400.00 per year, payable to the Land Division of the State of Hawai‘i, Department of Land and Natural Resources (DLNR), for the next five years beginning December 14, 2005, and ending December 13, 2010, and that the Water Board authorize either the Chairman or the Vice-Chairman to execute DLNR’s form indicating same.

MOTION: Mr. Mochida moved for approval of the Manager’s recommendation; seconded by Mr. Smith.

Mr. Goya stated that he would be abstaining from the vote because he was involved in some of the negotiations as an employee of HELCO.

Mr. Smith asked the Manager if he could explain the lease. From the information provided, the lease is between DLNR and DWS, but then there is a sublease to HELCO for the wind farms. He asked why that was.

The Manager replied that when this agreement was made, if HELCO were to go and get it themselves, the lease process would have taken a whole lot longer because they are a private entity, although the State does support renewable energy. Because this Department got the lease, it was a lot faster and easier for everyone concerned as long as there was an agreement between this Department and HELCO that the Department would not lose money on anything. The Department has confirmation from HELCO that they will be paying this. This Department is assisting HELCO, like a good neighbor.

Mr. Smith asked if the lease also includes the reservoir sites, the roadway, and the wind farm.

The Deputy Manager replied that they are separate. The lease is basically for the wind farm and the use of the access to the wind farm.

The Manager added that the reservoirs are under Executive Order and are not leases.

Ms. Helfrich stated that what the Manager just said--promoting good neighborliness--is possibly the hottest issue in the Legislature this year. She was concerned about the signal being sent with a 40% rent increase when efforts are being made to get renewable energy and non-fossil fuel resources off the ground. Her comment about the fair market value was that the land did not change. She wondered why this automatic markup was not questioned because it is going to kill energy programs or water programs.

The Manager stated that it was questioned when speaking with Mr. Harry Yada, the local Land Agent; however, it was beyond his control.

Ms. Helfrich asked, instead of an automatic approval, to consider sending a formal letter to the DLNR and to the State of Hawai‘i, Department of Business and Economic Development (DBED), Energy Division, because this is absolutely contrary to last three days of testimony that she has made before the Legislature.

The Deputy Manager stated that DLNR did have an appraisal done on the land. They based it on the amount of energy that is produced at the wind farm. Also, this Department has the option of having its own appraisal done, but it would probably not be what DLNR had contracted.

Ms. Helfrich stated that this is an example of two branches of government diametrically opposed to each other. She believed it would be appropriate for this Department to write a letter and have DLNR and DBED's Energy Division sign off, rather than to automatically pay.

Chairman Heck asked Ms. Helfrich if she was asking for an amendment to the Motion.

MOTION FOR AMENDMENT: Ms. Helfrich moved for an amendment to the Motion to get a sign off from DBED Energy Division and DLNR; seconded by Mr. Smith.

The Manager was concerned that if this is prolonged or not accepted, it might cause some problems for HELCO.

Mr. Smith stated that the main reason he seconded Ms. Helfrich's Motion was to clarify some of the issues. This is really an issue between DLNR and HELCO. He thought it was prudent that someone is sending the wrong message, but does not think it is DWS' argument. DLNR has a process to assess their lease rents. They have a million acres throughout the state that have to go through the same process. The process requires an updated appraisal, which was done. Department of Water Supply, or its subtenant (HELCO) has the opportunity to go through the arbitration grievance process to hire a separate appraisal to contest the first one. Since DWS has nothing to gain over this increase, he would think it is encumbered on HELCO if they do not agree with the increase, to argue it. But at the same time, it is probably prudent that DWS work with HELCO to draft the letter and addresses some of the issues consistent with Ms. Helfrich's comments that it seems like certain State agencies are not always in sync with each other.

After discussion on the intent of Ms. Helfrich's amendment, she stated that she was okay with approving this Agenda item, only with the intent that some communication be forwarded to the appropriate party, whether it be HELCO or the State agencies that she mentioned. Her intent is that the parties involved are aware that this was questioned by the Board.

Chairman Heck mentioned that the amendment on the floor was for the approval contingent upon the letter being signed beforehand.

Ms. Helfrich stated that she would like to see DBED sign off on it; but if the Board feels it is not appropriate, then placing it in the hands of HELCO is fine.

The Manager assured Ms. Helfrich that if she would take back the amendment, the Department would send that letter. An amendment to the Motion was not necessary.

In response to Ms. Helfrich's request that it be on the record, Ms. Self suggested having a follow-up on the Agenda for the next meeting to make sure it has been done.

Ms. Garson stated that the amendment to the Motion was not the same as what was just discussed. She suggested the Board might want to withdraw that one and make another.

WITHDRAWAL OF AMENDMENT: Ms. Helfrich withdrew the amendment; Mr. Smith withdrew his second.

Mr. Smith believed the protocol was that the letter go to DLNR because they are the landowner that is assessing the rent increase. It needs to be a collaborative effort between DWS and HELCO, and that, mainly, HELCO would write the guts of it. It would be copied to DBED so they know that as the primary tenant, there is a concern with the increase in rent that ultimately may impact the success of renewable energy efforts. Also copy to the Water Board.

ACTION: A vote was taken on the Motion to accept the rent amount of \$6,400.00 per year, payable to the Land Division of the State of Hawai‘i, Department of Land and Natural Resources (DLNR), for the next five years beginning December 14, 2005, and ending December 13, 2010, and that the Water Board authorize either the Chairman or the Vice-Chairman to execute DLNR’s form indicating same. Motion was carried by 7 ayes (Mss. Kim and Helfrich, Messrs. Harai, Mochida, Wilkins, Smith, and Chairman Heck); 1 abstention (Mr. Goya); 1 absent (Mr. Konanui).

E. **NATIONAL RAINWATER CONFERENCE - 2007:**

At the January 24, 2006, Water Board Meeting, a request for funding of \$28,000.00 to \$29,000.00 was made by the organizers of the National Rainwater Conference. Ms. Morgado was present at the meeting today.

In response to Ms. Helfrich’s question if they had spoken with anyone else in the County, Ms. Morgado replied they had approached Research and Development and were turned down because the project does not include agricultural water use. The Department of Water Supply is being approached because the spotlight is on water catchment, and it is an alternate to drilling wells and laying pipes. Ms. Morgado stated that all seven Rotary groups on this island are in support of this conference.

Ms. Helfrich suggested that they give a briefing to the entire Hawai‘i County Council.

The Board informed Ms. Morgado that this is a very worthwhile project; however, upon advice from Corporation Counsel, it is not recommended that the Water Board grant this request. Ms. Garson was asked if the Board could divulge her attorney/client privilege memorandum to those here today. Ms. Garson indicated it was okay with her but that the Board should be in agreement.

MOTION: Mr. Smith moved that the Board waive the right of confidentiality and allow Ms. Garson to explain her conclusions in her February 1, 2006, letter to the Water Board; seconded by Ms. Kim.

Ms. Kim asked the Manager if he was fine with that. (The Manager replied he was.)

ACTION: Motion carried unanimously by voice vote.

Ms. Garson explained that the Board does not have specific authority to grant money to nonprofit agencies. Part of it is there is no specific authority for them to do it, and this is unlike what is in the County Code for the grant process. Also, the Council has discretionary funds. There are other guidelines that other County agencies have. She reviewed the Hawai'i Revised Statutes and the County Charter to see if this could be done; but in her opinion, it cannot.

Chairman Heck indicated that their cause had the support of the individuals on the Board; therefore, if she could be creative and find other ways in which they can contribute, that would be beneficial.

Ms. Garson added that her opinion was solely based upon the monetary contribution to them.

Ms. Morgado thanked the Board for its consideration and indicated she would try and find other ways of getting support as suggested by the Board. (She left the meeting at 11:10 a.m.)

**F. PROFESSIONAL SERVICES AGREEMENT:**

Professional Services Agreement contracts for the following Department of Water Supply projects are being considered. However, the projects are not listed on the Department's current 5-year Capital Improvement Projects list.

- 1) Kukuihaele Treatment Plant and Supporting Facilities, consists of installing treatment processes, controls, building to house analyzers and appurtenances to treat the Waiulili Spring water. The spring has been classified as ground water under the influence of surface water, thus placing the Department in violation of the Surface Water Treatment Rule.  
Consultant: To be determined  
Fee: \$75,000.00 (estimate, subject to negotiation)  
Construction cost estimate: \$800,000.00
- 2) DWS Kona Baseyard Facilities Expansion, consists of constructing a new warehouse-office building to provide additional office, workshop and storage space for use by employees of the Field, Plant, Building Maintenance, and Engineering-Construction sections. The additional space will help to relieve the crowded conditions of the existing warehouse-office building and to provide for future office space needs.  
Consultant: To be determined.  
Fee: \$25,000.00 (estimate, subject to negotiation)  
Construction Cost Estimate: \$300,000.00

The Manager recommended that the Board approve the new projects, the professional services contracts subject to results of the procurement process and that either the Chairman or the Vice-Chairman be authorized to sign the documents, subject to approval of our Corporation Counsel.

ACTION FOR ITEM NO. 1: Mr. Goya moved for approval of the project for Item No. 1, Kukuihaele Treatment Plant and Supporting Facilities; seconded by Mr. Wilkins and carried unanimously by voice vote.

MOTION FOR ITEM NO. 2: Mr. Wilkins moved for approval of the project for Item No. 2, DWS Kona Baseyard Facilities Expansion; seconded by Mr. Harai.

Mr. Wilkins asked about the Kona Baseyard Beautification project.

Mr. Ikeda stated that staff met with Mr. Brewster a couple of months ago and gave a couple of options. Staff decided to go with one option and he was going to redesign and bring it back to the Department. In response to Mr. Wilkins' question of how long it would take, Mr. Ikeda speculated it would take three to six months.

Mr. Smith commented that the design fee is very low. (Mr. Mochida stated that was because it is only a warehouse.)

ACTION: A vote was taken on the Motion to approve Item No. 2. Motion was carried unanimously by voice vote.

**G. JOB NO. 2003-829, WATER MASTER PLAN AND WATER RATE STUDY:**

Consultant proposes to modify scope of work for the project and requests time extensions for 3 phases of the project as shown on the attached. Staff has reviewed the request and finds that the proposal is justified.

The Manager recommended that the Board approve a change of scope at no additional cost as well as the proposed time extensions to Phases 2, 3, and 4 of the project.

ACTION: Mr. Mochida moved for approval of the Manager's recommendation; seconded by Ms. Kim and carried unanimously by voice vote.

**H. TRI-PARTY WATER DEVELOPMENT AGREEMENT - MAUNA LANI SERVICES, INC., MAUNA KEA PROPERTIES, AND DEPARTMENT OF WATER SUPPLY:**

Taken up earlier.

**I. USGS MONITORING WELL AT HAWAIIAN OCEAN VIEW:**

Chairman Heck called Mr. Jim Stutheit to come forward and he also asked for a briefing from the Manager.

The Manager gave the latest report from the United States Geological Survey (USGS) as of today's date. The depth of the test well is 2,020 feet. After three attempts to get a 4-inch casing into the hole, it got stuck at 1,260 feet. Therefore, the 6-inch casing proposed by Hawaiian Ocean View residents last month would be impossible.

Mr. Stutheit had additional information with him today. He showed the Board a diagram of the diameter of the drilled hole, showing the clearance inside after placing a 6-inch casing inside. He also showed the Board a side view diagram of the well. The coupling provides multiple catch points. This is probably why they cannot put a 4-inch casing in. He felt there is a better chance of putting in a 6-inch "smooth" casing. He added that he is glad the 4-inch casing got stuck because if it were the 6-inch casing, USGS would have said "I told you so."

Mr. Stutheit continued that there has been an earthquake since the well was drilled. They are lobbying for the 6-inch casing to get an emergency supply for the approximately 3½ years it will take to put in a production well. Another thing about the production well is where it will be located. The people he had spoken with in Ocean View said the lot right next to where the monitoring well is located would be a good spot. The reasons are that there is a service road parallel to the highway. The right-of-way abuts the highway. It would be easy for trucks to fill up. You could also have a tank that can be used to supply water to this very fast-growing community. First they have to qualify the well as an emergency supply. They have already had wildfires in Ocean View within the last few months, and it will happen again. Another issue is Mauna Loa, which places most of Ocean View in Zone 1. Talk is that it will erupt again, the only question is when. Lava causes fires, and the emergency source will be needed to fight the fires. He stressed the urgent need for the emergency water source.

Mr. Wilkins mentioned that if you drill on that side of the highway, you will have to cross under the State highway to service Ocean View so the permitting process would not be easy. He suggested starting above the highway. The difference in depth would not be much more.

Chairman Heck stated that the emergency has not even been declared yet. This would have to be done by the Mayor. That is the next step. The 4-inch pipe could be in; and as long as it is not capped, then they could proceed with having it considered an emergency source. He did not think it has ever been proposed that the transmission would be under the road to Ocean View but just an emergency source of water for tanks for the fire department.

Mr. Wilkins also mentioned that it brings up another problem, and that is the number of trucks hauling. If you are trying to protect from a lava flow coming down, all those trucks crossing the Volcano Highway would severely disrupt traffic.

Mr. Stutheit stated that the reasoning was to have the well as far away from lava but still able to supply conveniently.

Mr. Smith asked if there was something before this Board for action today.

Chairman Heck replied that it is for discussion and possibly action.

Mr. Wilkins stated his support for the Ocean View project, including Hawaiian Ranchos, who have been fighting this issue for three years now. If an emergency water supply is a critical issue, perhaps consideration should be given to building an emergency water supply storage tank and filling it by trucking so that it is standing by.

Mr. Stutheit stated that they would be in favor of that if they cannot get it from a local supply. The advantage of local supply is that people can fill their small 5-gallon tanks.

Chairman Heck stated that progress on the USGS well is underway. As he also understood, they have drilled 90 feet beyond the water table so there is a question of the water being potable to any great degree because the draw might be too much. Regardless of that, he suggested the next step for Ocean View is get that emergency well status, which is crucial to taking any other step. If the USGS goes along with it, they will not cap the well. For this Department, it is pretty costly--over \$200,000.00 if considering the lot and that does not include the reservoir. That would be in the future for the Board to determine. Chairman Heck concluded that Mr. Stutheit should talk with the Mayor and the Governor.

Mr. Stutheit was in favor of doing that. He thanked the Board for its time today.

**J. HAWAIIAN OCEAN VIEW ESTATES \$6 MILLION APPROPRIATION RELEASE:**

The Board discussed the progress of this \$6 million appropriation.

The Manager mentioned the process to get the money released. There have been many proposals going back and forth. At one point, the Governor said she would release the funds provided that the Department of Water Supply give the State \$6 million in credits, which means it would be a no-interest loan to be paid back by this Department. That was unacceptable. That evolved into so many more conditions. He asked that Ms. Garson provide her information.

Ms. Garson stated that where it is now is explained in the February 22, 2006, letter from Mr. William Wynhoff of the State Attorney General's Office. After going back and forth with the Attorney General's Office, they sent a letter that said to facilitate the allotment, they want DWS to agree to provide any water needs to be acquired by the State for use in Hawaiian Ocean View from the project, and they will pay the prevailing rates. All they want is if they ever need water in Hawaiian Ocean View and this Department has water available, it will be provided and they will pay the prevailing rates. [The letter contains a signature line for the Manager to accept the terms of the letter.]

The Manager suggested that this Board refuse to sign this letter. What this letter does is says that this Department needs to agree to conditions for the release. They should not be putting conditions on this Department for release of an appropriation made by the Legislature. By signing this letter, it is implying an agreement to their putting in these conditions. He cautioned that this sets a bad precedence and he would not sign this letter. The Governor should either release the funds or not release them.

Ms. Kim stated that she has never heard of a C.I.P. allocation ever being released with conditions. She thought the Department should let the Legislature know.

The Manager stated that he was sure they know about it.

Chairman Heck stated that he would like to see the statement made that it is improper to place these conditions when it is standard practice of the Department in making water available if all prevailing fees are paid.

Mr. Wilkins asked if it was possible to make a certain number of water commitments available to the State for this not yet built well.

The Manager replied no.

Ms. Garson mentioned that the State owns no land and has no plans in that area.

Mr. Wilkins asked if it could be expressed in terms of a certain percentage of the output of the well or wells similar to what has been done with Mauna Kea.

Ms. Garson replied they are not asking for that.

The Manager agreed with what Chairman Heck suggested. He felt that Ms. Garson could prepare the letter.

Ms. Garson agreed that a letter, as discussed, be sent to them in answer to their request and that they would be treated the same as everyone else, which is, if water is available, it would be provided pursuant to the request and as long as everybody pays their fees.

Manager stressed again about not signing this agreement today.

Ms. Helfrich thought there might be a question of legality and mentioned that Hawaiian Ocean View has been waiting for this money forever.

Chairman Heck was not sure this was the first time the Governor or the State had conditions upon releasing Bills.

Mss. Helfrich and Kim had never heard of any.

Chairman Heck suggested that a strong statement be made to that regard.

Ms. Garson stated that she did some research on the legality of this and would be happy to share her thoughts but not in open session.

Chairman Heck asked the Board if it would entertain a Motion to go into Executive Session to hear Ms. Garson's research on the appropriateness of this request.

ACTION TO ENTER EXECUTIVE SESSION: Ms. Kim so moved; seconded by Mr. Wilkins and carried unanimously by voice vote.

Executive Session began at 11:40 a.m. and ended at 11:55 a.m.

Chairman Heck asked if there was any further discussion regarding this item or the letter to be written. Discussion followed which resulted in the Board's direction to Ms. Garson to send a letter to Mr. William Wynhoff of the State Attorney General's Office from Corporation Counsel's Office, with copies to the Governor, Mayor Harry Kim, and Mr. Don Nitsche.

**K. CORPORATION COUNSEL'S SERVICES:**

Ms. Self stated that at one time, the Board had an attorney as well as the Deputy Corporation Counsel. Her concern was about times when she is not available for Water Board Meetings due to scheduling conflicts. She wondered if the Board wanted to go back to having Ms. Garson represent the Department as well as the Water Board; and if anything comes up where the Board wanted an opinion, she could make herself available.

Ms. Garson stated that Ms. Self has helped the Board comply with Sunshine Law; however, if Ms. Self is not available, she can do this for the Board. The second person would not have to come to the meetings. This is not implying that the Board will not have independent representation. She asked the Board for its opinion in this matter.

The Board was in favor of having Ms. Garson represent both the Department and the Board.

**L. CELL TOWER SPACE RENTAL:**

Mr. Goya had asked that this be on the Agenda in order for the Board to discuss potential DWS sites for cell towers. His thought was that if the Department had some appropriate locations, there would be a possibility of leasing them and generate income, perhaps \$1,500.00+/month. He thought the Board should look into it. He would like to direct legal counsel to find a historical basis of the County leasing and if it can be done, and provide with rental income from the sites. If there are good sites, perhaps more than one party would be interested in co-locating at a site, which would also increase the income.

Mr. Mochida stated his two concerns, 1) if this affects monitoring by Operations staff, and 2) if it affects Homeland Security.

The Manager stated that if the Board were to agree, there would be conditions. This was brought forward years ago but was not passed by the Board at that time. If it is to be done, the Department would be very selective. The main thing, is if this is something that can be done, how to do it pursuant to the Procurement Code.

Mr. Harai stated that there are a lot of complaints about cell towers and wondered if this Department would want to get into that.

Ms. Helfrich thought it was an ideal opportunity for locating utilities in one area.

Mr. Smith was in support of this idea. It may also be an opportunity to bring fiberoptics closer to a reservoir site that may assist with the SCADA needs of the DWS system.

The Manager stated that the main criteria is that it does not jeopardize the Department's primary function.

Mr. Smith added that the Department of Hawaiian Home Lands has a number of microwave towers up in Hoola above the sheep station that they derive general lease income from.

The Board agreed to wait for Ms. Garson's report on legalities. Place on Agenda for March 28, 2006.

**M. MONTHLY PROGRESS REPORT:**

No questions.

**N. REVIEW OF MONTHLY FINANCIAL STATEMENTS:**

No questions.

**O. MANAGER'S REPORT:**

- 1) Kona Coastview/Wonderview Improvement District project - the Manager mentioned criticism from a resident because this Department told the residents that they do not need a plumbing permit to install from the meter to the house; and in 90% of cases, you do not need it; but if you go to the Department of Public Works and ask them, they will tell you it is needed. The Deputy Manager added that one of the Department's engineers is working with Councilman Pilago's office in an effort to clear up the misunderstanding.
- 2) USGS Drilling Program - in response to Mr. Goya's question of whether the Department is still paying USGS, the Manager replied that this Department is paying them for whatever time they spend on this island. Chairman Heck added that they are wrapping up what they are doing.
- 3) Kona Water Quality - the consultant found something that may help the method in which water is pumped from the shaft.
- 4) Report on Councilman Safarik's concerns in Puna - The Manager had a lengthy meeting with the Mayor and explained what this Department did during the drought, which was removing restrictors because they could not fill tanks fast enough. Also talked to Shipman and also made an additional standpipe facility available within Shipman Industrial Park, with the understanding that when the drought is over, it comes out. Councilman Safarik was advised by letter of the measures the Department took to take care of his concerns.
- 5) Negotiations with Kamehameha Investment Corp. - an offer was made to them to give this Department the well sites, this Department develops them, then the Department gives them water. Staff is waiting for a counteroffer to come back.
- 6) Retirement of Glenn Ahuna, Engineering Division Head - taken up earlier.
- 7) Board to determine place to hold April 25, 2006, Water Board Meeting - the Board decided to hold the April 25 and May 23, 2006, Water Board Meetings in the Hilo Operations Center Conference Room; 889 Leilani Street, Hilo, Hawai'i. Meetings start at 10:00 a.m.
- 8) AWWA National Conference, San Antonio, Texas - Messrs. Harai and Mochida and Ms. Helfrich indicated their interest in attending. Ms. Kim has started her arrangements.

P. **CHAIRMAN'S REPORT:**

Chairman Heck stated that Mr. Smith had something to report. Mr. Smith stated that he had a lot of positive comments about the Manager and Mr. Lawrence Beck attending the Kawaihae local resource council meeting a couple of weeks ago on a Sunday afternoon. A lot of people appreciated their being there and clarifying some of the issues.

In response to Mr. Smith's question about Bolton, Inc.'s, water development project, the Manager stated that staff met with Mr. Bolton's attorney, and there are some concerns about allocation of water and about his ability to get enough participants to make it economically feasible. Negotiations still ongoing.

Q. **PROJECT FUNDING AND REIMBURSEMENT AGREEMENT:**

*(By Addendum)* The Project Funding and Reimbursement Agreement sets forth the reimbursement of the County by Department of Water Supply (DWS) for our share of debt service of the General Obligation Bonds and relating servicing costs. Of the Fifty Million Dollar (\$50,000,000) General Obligation Bond issuance, DWS will utilize Twenty-Five Million Dollars (\$25,000,000) to fund various improvements and betterments to our water system. The terms and conditions of the agreement are satisfactory to DWS. Attached is a copy of the Agreement.

The Manager recommended that the Board approve the Project Funding and Reimbursement Agreement and that either the Chairman or the Vice-Chairman be authorized to execute the Agreement, subject to review and approval by our Corporation Counsel.

**ACTION:** Mr. Mochida moved for approval of the Manager's recommendation; seconded by Mr. Goya and carried unanimously by voice vote.

**ANNOUNCEMENTS:**

1. **Next Meeting:**

The next meeting of the Water Board will be held on March 28, 2006, 10:00 a.m., in the Royal Kona Resort, Resolution Room, 75-5852 Ali'i Drive, Kailua-Kona, Hawai'i.

**STATEMENTS FROM THE PUBLIC** - None

**ADJOURNMENT**

**ACTION:** Ms. Kim moved for adjournment of the meeting; seconded by Mr. Mochida and carried unanimously by voice vote. Meeting adjourned at 12:25 p.m.

---

Secretary

*The Department of Water Supply is an Equal Opportunity employer and provider.*