

BOARD OF WATER SUPPLY
County of Maui
Regular Meeting
Thursday, March 22, 2007
9:00 a.m.
Department of Water Supply
Planning Division Conference Room
Hokama Building, 2nd Floor
10 Kinipopo Street
Wailuku, HI 96793

I. Call to Order

Chair Kenneth Okamura called the March 22, 2007 Board of Water Supply meeting to order at 9:06 a.m.

II. Attendance

Board Members Present:

Also Present:

Scott Luck
Michael Howden
Ginny Parsons
Carl Holmberg
Kui Lester
Kelli Myers
Vice Chair Lee Aldridge
Chair Kenneth Okamura

Jeffrey K. Eng, Acting Director
Edward Kushi, Jr., Deputy Corporation Counsel
Herb Chang, staff engineer
Gaye Hayashida, Commission Support Clerk

Others:

Lisa Baptiste
Robert Guseman
Dawn Silva
Walter Silva
Katherine Silva
Michael Fernandez
Janelle Fernandez
Tabitha Fernandez

III. Announcements

A. Introduction of New Board of Water Supply Member, Kelli Myers.

Chair Okamura introduced the newest member of the board, Kelli Myers, who is completing Michael Victorino's unexpired term ending March 31, 2007.

IV. Approval of Minutes

A. February 22, 2007 Meeting

Vice Chair Aldridge asked that page 6, line 1 be corrected. The word "does" should be removed. He also stated that on the same page Member Haller's statement as reported in the minutes regarding the (variances and) appeals board is an incomplete sentence.

Motion: By Member Howden to approve the minutes of February 22, 2007 with correction.

Second: By Vice Chair Lee Aldridge

Discussion: None.

Vote: Ayes – Unanimous. Motion carried.

V. Testimony from the Public

Lisa Baptiste gave oral testimony regarding her experience in trying to get a meter for the last year and a half. She is also requesting to be on the next Board agenda to appeal the conditions and stipulations of the County placed upon her to get a second meter. At this time Ms. Baptiste distributed copies of her testimony.

When they purchased this property over 10 years ago, it was already "condominiumized." There is one existing meter and they are requesting a second for the other property. A new meter would be issued under the options as set by the County, one of which is to install a new a 4-inch line. She cannot get her meter unless she does the proper improvements.

The 3 options they have are:

1. Add 2 new meters on the corner and trench 500 feet through the neighbor's yard to connect to the existing meter.
2. Put the meter on the farm corner then trench through the neighbor's gulch. These first 2 options would create an easement on their land.
3. Bring a 4-inch line through the county road down to the existing meter. This would cost \$180 per linear foot, or \$100,000, though the County is offering a 50% refund.

Ms. Baptiste has asked Director Eng to consider changing the rules so that they could get a bigger refund or at least offer other options because she does not have the \$100,000 to trench 500 feet to put in a 4-inch line. If she brings in the 4-inch line the County will use it to upgrade everyone else on that block at her expense.

Member Parsons asked if she is upgrading the line because of fire flow issues. Ms. Baptiste replied that she did not know. She was just told that it wasn't up to par.

Chair Okamura asked Ms. Baptiste if she was making a request to be placed on next month's agenda. She replied yes. He stated that it would depend on when the staff can do their report.

It was noted that Janelle Fernandez's sister-in-law wanted to give public testimony but she had not yet arrived. Chair Okamura agreed to allow her to give public testimony when she arrives.

III. Announcements (continued)

Chair Okamura informed the board that the upcoming AWWA 2007 Annual Convention will be held June 24th – 28th in Toronto, Canada. He announced that the Department can send 2 people from the board. Since he and Vice Chair Aldridge cannot attend, he is asking if any one else wanted to go. If more than 2 are interested, they will go by seniority.

VI. Unfinished Business

A. None.

V. Testimony from the Public (continued)

Tabitha Fernandez gave public testimony regarding COM 06-21 for Michael and Janelle Fernandez. She testified that she was the one that did all the calling around back in 1995. She spoke with Arnold back then to request that their names be added to "the list" so that they could get final subdivision approval. According to Arnold, the Water Department would contact her if and when a water meter became available. She was never told to go back to the Water Department. She was never notified in any way and she has been at the address listed on the application until December 2002.

Mrs. Fernandez explained that parcel 10 referenced in her memorandum also belonged to her father-in-law which was also being subdivided at that time along with parcel 9.

In 1995 they were told they would be placed on the list for a water meter but no one put them on the list. In 2002 when Michael Fernandez went to the Department to inquire about their water meter, they could not find anything.

Mrs. Fernandez stated that they did everything they were supposed to do and still it is not enough. If the ball fell somewhere then it fell in the Water Department.

VII. Communications

A. COM 06-28 Letter from Robert Guseman and David Steele requesting subdivision approval for their property located at 85 Mamao Place, Haiku, tmk 2-8-009-014.

Mr. Guseman stated that they have been trying to subdivide this property since 1985. At that time there was insufficient water source and their substructure was not good, so everything was put on hold. Five years ago their substructure was completely replaced. They re-applied again and that is when they found out about the list and it's still the same thing – not enough water source for any more buildings.

He and his partner have a house on each of their half. They are not asking to build anything or increase their use of water. Currently they share a meter and they use 15,000 gallons a month. They just want to divide their property in half and wonder why they cannot just sign an agreement stating that they won't build any more until such time that there is adequate water source.

Director Eng stated that basically with this subdivision request there is a need for an upgrade in the fire protection. There are other requirements but primarily it is the lack of proper fire flow per the Department's current standards.

Herb Chang, staff engineer, stated that even though system improvements were made to the property, the off-site water tank and booster pumps to provide fire protection were not installed. The Department could not approve the subdivision because fire protection was not adequate. Also, the Water Meter Issuance Rule for the Upcountry Water System requires that each subdivided lot have its own water meter. In this case there is only one meter. These are the 2 things that they couldn't get resolved and that is why the engineering staff responded in the way they did.

Vice Chair Aldridge asked Mr. Guseman if he and his partner would be willing to sign an agreement to share one meter until such time that water source capacity is available. Mr. Guseman replied in the affirmative.

The Vice Chair asked why didn't all the improvements get completed when the County took over the private water source. It seems an excessive burden on one

subdivider of one lot to fund that. Normally, when you make large subdivisions that is the time you build all the facilities necessary for the entire area.

Director Eng stated that Maui Ranch Estates has always been a problematic subdivision being that it had a private water system. He doesn't know exactly why everything wasn't completed but believes there may have been a lack of funding.

Mr. Chang stated that Maui Ranch Estates was able to get federal assistance but when they went out for construction bid they realized they didn't have enough money. The decision was to proceed with what monies they did have and complete what they could.

Member Parsons asked if Mr. Guseman has spoken to the Fire Department. Mr. Guseman replied yes, he has and Mr. English of the Fire Department told him that if the Water Department issued new meters then he would sign off on it.

Member Parsons stated that she has spoken to the mayor and that they are reviewing the fire flow issue and putting it under the Fire Department.

In her opinion, if this is the fire chief's position then we need to go with what he suggested and maybe we need to have his testimony. The Department and the Fire Department work on different formulas. If Fire Department thinks they can protect the property then she doesn't know how we can keep holding this issue of fire flow over someone's head.

Vice Chair asked, when Pookela Well goes on-line, will it provide additional capacity to the Upcountry system? Will some of these meters that are on the wait list be available for water service?

Director Eng stated that hopefully Pookela Well will be coming on soon. A couple of weeks ago, they had a little problem when they attempted to start it up. It didn't start up. Apparently it was something on the Maui Electric side. Last Friday another attempt was made and it did start up. The Department is preparing to do a 48-hour test next week. If that is successful and all the controls are working, they will run it for a period of time and hopefully they will be able to declare an issuance of a certain number of meters.

The Department is still trying to determine how many meters they can issue. They will need to keep some of that capacity in reserve for emergency drought back up or for failure of other surface water treatment facility.

The next project in '08 is to expand the Kamole Weir facility. They are completing the Clear Well project expanding the treated water from 300,000 to 3 million gallons.

Vice Chair Aldridge asked Edward Kushi, Deputy Corporation, if it is possible to have Mr. Guseman and Mr. Steele sign some kind of agreement to share a meter on the condition that they don't build any additional structures and perhaps waive their rights to additional fire protection. Mr. Kushi replied that in his experience they have made agreements where the sharing meters existed before the rule. In these cases they have advised the Department that they cannot pull the meter. Anything that happened after the rule the Department can pull the meter if they find out that the meter is being shared. The sharing of meters and the one meter per lot rules are subdivision requirements. The Board has the authority to modify that subdivision requirement to have one meter shared between 2 lots. But this would bring a whole bunch of problems into play later. Because this is an ag lot the Department's requirements for general consumption is way more than that one 5/8-inch meter can handle. Second, if you condition it on "no further building", it will get back to the Department later. As it is, the Department has been inundated with requests to build even though there are these agreements. The other issue is that the application for this subdivision was received in 2005, but the note states that they had a subdivision plan in 1985.

Mr. Guseman explained that when they first applied there was inadequate water source plus all the substructure pipes weren't adequate. So they waited until all the new substructures were put in then they re-applied. That's when they found out about the list and then when they applied for a subdivision they were put on the list again. That is why there is a duplicate. One of these has to be taken off.

Mr. Kushi stated that this may involve the 60-day rule issue where he can get off the priority list and be placed in front of the priority list but problem is that there is no record of any subdivision request in 1985.

Mr. Chang stated that the Department does have something on record for 1985 so he thinks the 60-day rule fell into place but that rule is long gone now.

Mr. Kushi stated in reference to Vice Chair Aldridge's question, his office will recommend to the Board and to the Department not to approve shared meter subdivisions.

Member Parsons asked if sprinkler systems would help to alleviate some of the formula numbers. Mr. Chang replied that unfortunately, the rule for subdivisions do not allow for sprinkler systems. It requires tanks, fire hydrants and stand pipes.

Motion: By Member Parsons to defer this matter subject to Mr. Guseman discussion with Mr. English, the fire chief, about the fire protection issue.

Second: By Member Howden.

The Chair re-stated the motion; to defer this matter until Mr. Guseman has had a chance to speak to Mr. English at the Fire Department, and have Mr. English or his representative at the next meeting to talk about fire flow.

Discussion: Vice Chair Aldridge stated that he would approve this deferral but it still only addresses the fire flow issue and does nothing to resolve the source capacity issue. He thinks that when the Department took these facilities on as part of their water system, they really should have seen to it and that they now have a responsibility to construct the rest of the facilities for fire flow as opposed to placing the burden to the individual subdivisions.

Vote: Unanimous. Motion carried.

B. COM 07-01 Letter from Dawn M. Silva requesting a water meter for 937 Kokomo Road, Haiku, tmk 2-7-011-031.

Dawn Silva pointed out to the photograph included in one of the hand-outs which shows a water meter box on her property. Ms. Silva produced a blueprint of her subdivision and the laterals that went to their subdivision. These things led them to believe they had a meter in the first place.

In 1989 her uncle and aunt, Antone and Lucy Texeira, left this property to her mother. At that time they hired ECM to subdivide the property and it took almost 4 years to complete this simple subdivision. She feels that ECM took advantage of her family. All the paperwork between ECM, Public Works and the Department of Water was done by mail because her parents and uncle were on the mainland.

This water issuance rule that came out in 2002 did not serve her family well because her uncle was not here. She is a little disturbed that the Department of Water did not take the effort to send everyone with laterals Upcountry this issuance rule.

Three real estate agents told her that without a meter her lot is less than \$200,000. That is all she can sell it for but she doesn't want to sell. Now that it has been changed to an R-2 lot she cannot even raise animals on it.

At this time Ms. Silva read from her handout. A copy of her written testimony is attached and made a part of these minutes.

Ms. Silva quoted Council Member Gladys Baisa comments that the people of Upcountry Maui are being treated like third class citizens.

If this is the way these meters are being issued, they won't have a meter until 80 years from now. So she has come before this Board to humbly ask for a water meter. She feels they should have been treated better than this.

Director Eng stated that he has reviewed all her documents and he has reviewed it in terms of whether the Department was deficient in processing. As far as he can determine the engineering division handled it appropriately. His position and interpretation has not changed. He cannot make emotional decisions because he has to be fair to everyone.

Member Parsons asked Mr. Kushi how he felt about the fact that the plan was signed off by the Water Department which means that they allocated water for it and also how did he feel about the 60-day notice. Mr. Kushi replied that "signing off" doesn't mean that they allocated water. If they had applied in 1991 they would have gotten a meter. There was no source shortage then. If they signed off now, that would be a problem.

The 60-day rule is another situation. The council is considering revising that rule. This matter falls into the 60-day rule situation. The documents submitted shows that these people did invest money. Had they applied for a meter they would have definitely qualified.

Ms. Silva stated that her family thought that when they paid ECM for those laterals that meant that they were getting water. If somebody had told them in 1991 that even though the laterals were there that doesn't mean you have water so now apply for a water meter. They would have done so.

Mr. Kushi stated that what Ms. Silva says and what she testified seems to be in conflict. He recalls that she said that they didn't apply for a meter because her aunty didn't want to disturb the brother. The other conflict is that was she even there in 2002? It was noted that Ms. Silva took title to the property in 2006.

Catherine Silva stated that when they first started the project in 1989, they were told at that time in order to subdivide this property they needed water meters. If you look at the map it shows the water meters. When they got those papers on the mainland they assumed everything was done. When they moved to Maui her uncle was still using the property and it was her mother that had those meters (boxes) put in. If you look at it you would think there were meters in there.

Member Parsons stated that she takes exception to the fact that even though we signed off that didn't mean that we didn't accept the allocation. In those days, any time applications were brought in to the Department we allocated the water. So when we signed off on that there was an allocation of water expected.

Mr. Kushi stated that Member Parsons can take exception but that is not the way it happened. That is not the way allocation was made. If the director signed off on a subdivision there was no automatic meter allocation. Member Parsons corrected him. She did not say meter allocation she said water was allocated through the

Water Resources (and Planning Division). Every single subdivision had an amount of water usage that was counted. We allocated water toward that subdivision.

Member Howden stated that because it was signed off it is almost a defacto entitlement for a water meter. Mr. Kushi stated that he strongly disagrees.

Chair Okamura asked Mr. Chang to enlighten the Board on whether allocation was made when the plans were approved in 1991. Mr. Chang replied that allocation was done by the Planning Division. The Engineering Division just handles the construction part. The Chair stated that it is being said that water was allocated when the Department signed off on the plans. Mr. Chang stated that he was not aware of any allocation at that time.

Vice Chair Aldridge asked Director Eng, if in the Department's experience, have there been subdivisions where water laterals were constructed but meters were not requested? The Director replied that he would assume it was fairly common in the past.

Vice Chair Aldridge asked, when Ms. Silva's family hired ECM to complete the facilities a meter was shown in the plans, the family made the assumption that they were going to request and have a meter installed. However, at any point in time did anybody question why the family didn't get a bill? Ms. Silva replied no.

Catherine Silva stated that when they had the work done they were charged \$100 for storage fee. No one had told her that you had to pay so much each month just to have a meter there.

Director Eng stated that it is clear they put in a double service lateral, a meter box and a valve box but the plans and the contractor's invoice do not indicate anything about a meter installation itself.

Motion: By Member Howden to recommend that a meter be granted for the Silva's at 937 Kokomo Road.

Second: By Member Lester.

Discussion: Member Holmberg asked the Director if he has any idea how many blank laterals you have Upcountry. Director Eng replied no, he doesn't. Neither did Mr. Chang.

Member Lester asked what was the \$100 storage fee and who was that paid to? Ms. Silva replied that it was paid to the Department of Water and they assumed it was for the meter.

Director Eng explained that the storage assessment fee is charged when a new customer takes capacity from the reservoirs so the Department has a fund to develop additional storage in the future and to replace what was taken. The storage fee is now incorporated in the \$6,000 charge that encompasses everything.

Mr. Kushi suggested amending the motion to allow Dawn Silva to apply for a meter as if the 60-day period starts whenever the Board decides. She has to actually apply for a meter, pay the meter fee and based on the department's source capacity now, she would come before any one on the priority list. The Board must understand that she would be jumping the line. This may have an effect on when the Director starts issuing meters from the priority list.

Member Howden reminded the Board of a previous case where a couple living in Kaneohe who applied for a meter. In similar circumstances, they have a lateral and the land sat fallow for ages. Again too, they had no clue that the Maui News had published the rule because they were off-island and were totally unaware of the situation until they tried to sell the property. The Board turned them down. How many people will come to the Board and say what about us?

Member Howden stated he feels this case is different from the previous case.

Vice Chair Aldridge stated that he seconds Member Holmberg's position. He believes in the sincerity and truthfulness of the Silva's that they believed they had meter but the fact is they don't. It is unfortunate that they don't but at that time 60-day notice was decided to be adequate and legal.

Member Parsons stated that the 60-day notice rule is an issue at this point and the job of the board members is to represent the public and to protect the Department from liability.

Mr. Kushi stated that the Department is just following the rule. The 60-day rule is contained in your Water Meter Issuance Rule for the Upcountry System. There is a section about waiver and modification by the Board. The issue of jurisdiction is up in the air.

The Board by a two thirds vote of its entire voting membership may waive or modify requirements of this rule when not contrary to the public's health, safety or welfare, and when the Board finds:

- (1) Strict application of the rule would cause an absurd, unfair or unreasonably harsh result;
- (2) The board finds the circumstance or condition is unique or exceptional, and the board would grant the same request if made by every similarly situated applicant; and

- (3) The resulting action of the board will be without detriment to existing users.

Whether or not the 60-day rule is illegal or unconstitutional, this provision itself gives applicants due process to come to the Board. The Board has some standards to review appeals.

Amended Motion: By Member Howden to recommend that Dawn Silva be jumped to the head of the priority list and be given a water meter as capacity so permits.

Mr. Kushi stated that Ms. Silva is on the priority list now. We are taking her off the priority list and allowing her to apply as if she is part of the 60-day rule group. She will now be before the priority list.

Second: By Vice Chair Aldridge.

The Chair re-stated the motion; the Board recommends that parcel 2-2-7-011-031 to apply for a water meter as in compliance with the 60-day rule.

Discussion: Vice Chair Aldridge stated he would support this amendment. But in a separate venue he would like this Board to review the issues of water allocation; and review and make recommendations on the issue of the 60-day rule.

Member Holmberg asked Director Eng per the 60-day rule, what is the process for Ms. Silva? Director Eng asked Mr. Chang if the Department has dealt with issues like this. Mr. Chang replied in the past the former director, due to the uniqueness of the case did allow people to jump into the 60-day period. The Department would issue the meter but deduct the source capacity.

Member Luck asked if there a second list for the 60-day period. Director Eng replied no, there is no second list. He doesn't know how they will handle this.

Mr. Kushi stated that if the Director goes along with this, he will issue a letter to Ms. Silva to come in within 60 days to make her application. If the department has source capacity then they can put the meter in. If the Department does not have the source capacity, then she would need to put in a reservation and pay the \$6,000 fee. When source capacity is increased so they can start issuing meters, then she will get it before the people on the priority list.

The Chair stated that the motion on the floor is to recommend that the Department allow parcel 31 to apply for a water meter as in compliance with the 60-day rule.

Vote: Unanimous. Motion carried.

VIII. Director's Report

- A. COM 06-21 Michael and Janelle Fernandez requesting water meter for 946 Makani Road, tmk (2) 2-3-003-009.

Janelle Fernandez wanted to address item #3 of the March 12, 2007 staff report. She read the letter from the Board to her dated January 30, 2007 and from the Department's staff report.

"The Board has voted to recommend to the Director that the Department of Water Supply's engineering staff determine if there have been others who filed a "March 21, 1995 Drought Water Service Request" form and were denied meters but were subsequently granted one when the drought was over. If this was the case, then the Board recommends that the Department apply the same procedure to your request."

The March 12, 2007 staff report states, "Since the effective date of the Water Meter Issuance Rule for the Upcountry area, there are no records showing the Department had approved new meters due to denial of meter approvals during droughts."

Janelle Fernandez stated that this doesn't answer the question because the engineer is referring to the Water Meter Issuance Rule for the Upcountry area. But their application was in 1995 and shouldn't apply to the Water Meter Issuance Rule.

Tabitha Fernandez stated that since they applied in 1995 there have been other people who have received meters because they were on the list in 1995. The staff report makes it sound like there have been no water meter issued since 1995, and that is not the case.

Michael Fernandez stated that they applied for a meter in 1995 but were denied one due to a drought at that time. They got everything done that needed to be done. They believed that because of their application they would be notified when a meter becomes available.

Janelle Fernandez stated that at the last meeting a question came up regarding the parcel number referred to on their notes, why it list 010. Michael and Janelle explained that 010 is the lot next to them. Both 009 and 010 were subdivided at the same time. So the original application was for parcel 009 but when the subdivision went through they became parcel 215. When Michael went to the Water Department in 2002 he was told there is no record for 009 on the water meter list. So in 2003 Michael applied for a water meter for parcel 215.

Janelle stated that when the drought was over the Department should have notified them.

Director Eng stated that the question that has been posed is anyone who filled out this form (March 21, 1995 Drought water Service Request) would they have automatically been put on the wait list? His staff did the research and found that this form did not automatically put them on the priority list.

Mr. Chang stated the Department's procedure during drought situations is to hold back all meter installation requests until there is normal rainfall. That is what precipitated this particular form.

Mr. Chang further stated that the Fernandez family had applied for a subdivision in 1992. At that time if you had a subdivision before 1993 you could proceed and get your subdivision finalized and get your meters. If you look at the meter list we don't have anyone before 1992 which was when the subdivision was applied for so they wouldn't have gone on the list. He stated that he has documentation that showed someone applied for subdivision approval in 1992.

Member Parsons stated that if it is 1992 that they applied for a subdivision then they would fall into the 60-day rule category which is better for them.

Motion: By Member Parsons to recommend that the Fernandez's be place in the 60-day rule category for a water meter pursuant to the paperwork they have provided and pursuant to source availability.

Second: By Vice Chair Aldridge.

The Chair stated that the motion is to recommend to the Department that this parcel, 2-3-033-215, be allowed to apply for a water meter as in compliance with the 60-day rule provided there is sufficient source and meeting the Department's requirements.

Discussion: None.

Vote: Unanimous. Motion carried.

B. Meeting with the State of Hawaii Department of Agriculture and the NRCS on the Dual Line project.

Director Eng stated that this meeting was postponed and is being re-scheduled but he doesn't know when. Hopefully, he will be able to meet with them before the next meeting.

IX. Committee Report

A. Discussion/possible action on Water Supply Rules Committee Report.

A copy of the Water Supply Rules Subcommittee's report is attached and made a part of these minutes.

Vice Chair Aldridge stated that 2 comments he had provided were not incorporated into this report. The first, though he felt that after these meetings he wasn't sure he wanted to continue with it, was that the appellant board should include standing members of the water board, in spite of Corporation Counsel's admonition of whether that was advisable or not.

Mr. Kushi stated that Michelle Anderson's Water Resources Committee discussed the appellant powers of this Board and his office has changed course on this matter. They will be signing off on a proposed bill authorizing this Board to hear appeals. It is a matter of fashioning the bill to include all of the sections on appeals which will be coming up in the next month or so. This would fall under the Board's other duties as authorized by ordinance.

They are wrestling with the contested case issues because they found that as with the Board of Variances and Appeals and other appellant boards it would take quite a lot of time if we go with full on hearings; meaning subpoenas, depositions and etc. They are trying to fast track this while still having this Board as an appellant body.

Director Eng asked Mr. Kushi, when a party comes to him, his staff would do the research and make a recommendation based on the information they have and generally he would act on it. If they then appeal his decision and go before the board, what type of research would the board do? Would the board use his staff or would they use their own staff to do the research? He is concerned about the amount of workload his staff already has.

Mr. Kushi stated that if this goes through it would almost be like the Board of Variances and Appeals. Someone from his office would represent the Board and someone else from his office would represent the Department. The appellant may bring in their own counsel. Someone from his office would present the case and he would advise this Board, then there will be written Findings of Fact and Conclusions of Law, Decision and Order. The appellant can then appeal it to the courts if they want to. The appeal has to be timely, filed within so many days of the written decision and they have to pay a fee.

Member Holmberg posed a question to Director Eng. He anticipates that the Department will, with due diligence, apply the regulations, look at the situation and then deny somebody. So when it comes to the Board, chances are that what they will be looking at is the "slightly bigger picture". If they cut somebody some slack what will they be slammed with? If they ask the staff for information, they wouldn't ask the staff to re-investigate what they already looked at, but to provide extra data points that might affect the Board's decision.

Chair Okamura asked if it would be appropriate to ask the council that if they are serious about implementing this then it would cost money in terms of additional staffing or training for the Board.

Director Eng stated that he would bring up the same points as they proceed with the Water Resources Committee. Any concerns the Board may have could be submitted as written testimony.

The Chair suggested placing this on next month's agenda.

Member Parsons asked what other alternatives does one have, because right now it doesn't leave you with much other than court action.

Vice Chair Aldridge stated that he had one other comment that he had provided that is not in this report. In item 6, section 14.01.029, there was a statement within this rule that said potable water is defined in part as "groundwater extracted at an acceptable rate and containing less than 250 milligrams per liter chlorides..." His comment is that there is no definition or reference to identify what acceptable rate is. Who determines what is acceptable? Would the 250 milligrams per liter chloride on the extracted groundwater prevent any future use of more brackish groundwater? He does not want rules that are too vague and end up having everyone argue as to what it means.

The Vice Chair stated that this is food for thought because he didn't bring answers to the questions, just more questions.

Motion: By Member Howden to approve the subcommittee's report.

Second: By Member Parsons.

Discussion: None.

Vote: Unanimous. Motion carried.

X. Other Business

A. Verbal Update on Pookela Well.

Director Eng stated he previously gave a report on this agenda item.

Vice Chair Aldridge asked the Director, what is the anticipated production capacity from Pookela wells? Director Eng stated because it was never considered a production or primary well, he is consulting with staff to determine how many meters they can safely issue and they are very close to determining that number. The other issue is the cost of operations. The cost in electricity is 2 ½ times more to pump

water from Pookela than to pump it up from Kamole Weir Treatment Facility to the same Pookela tank. It is tough because we don't have any additional back-ups.

Vice Chair Aldridge asked about approximately what pump rate are we looking at? Director Eng stated that it would be about 1.296 mgd if you max out at 24 hours per day.

B. Discussion regarding the Department of Water Supply's comments on the Environmental Impact Statement Preparation Notice and the Draft Environmental Impact Statement for La'au Point.

Director Eng stated that they limit their comments to items such as these. They do not get into the political issues.

Member Howden stated that the last 2 sentences in the Department's letter to Jeffrey Hunt, "MPL has not acknowledge that they would yield to the Department's water use..." is tremendously germane in this issue.

Chair Okamura explained to the Board members that these EIS letters are the only relationship to the La'au Point that the Department has.

XI. Division Reports

Vice Chair Aldridge asked if the Olinda Plant is down for maintenance. The Director stated yes, it has been down for over a month and half for of the retrofitted filters. It will be back in production around the third week in April.

X. Other Business (continued)

F. Receipt of Board Member request for agenda items to be place on future agendas

1. Dr. Pang on the Upcountry Advisory Committee
2. The Chair is working on a letter to the mayor to appear
3. Review alternatives to hiring employees
4. Source allocation
5. Robin Knox to give presentation on Maui water in a couple of months
6. Updates on Na Wai Eha and on East Maui as they come available
7. Test bore in East Maui to confirm Dr. Thomas' theories on deep aquifer accumulation and on site selection
8. Review 60-day rule

C. Resolution

1. Approval of Resolution No. 07-01 for outgoing Board of Water Supply Member, Virginia "Ginny" Parsons and presentation of a plaque.

Motion: By Member Howden to approve Resolution No. 07-01 for outgoing Board of Water Supply Member, Virginia "Ginny" Parsons.

Second: By Vice Chair Aldridge

Discussion: None.

Vote: Ayes – Vice Chair Aldridge, Members Holmberg, Howden, Lester, Luck, Chair Okamura and Member Parsons.

Nays – None.

Excused – Member Haller

Motion carried.

XII. Adjournment

The March 22, 2007 Board of Water Supply meeting was adjourned at 12:35 p.m.

Prepared and submitted by:

Gaye Hayashida
Commission Support Clerk

Approved on: _____