

BOARD OF WATER SUPPLY
County of Maui
Regular Meeting
Thursday, April 26, 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 April 26, 2007 Board of Water Supply meeting to order at 9:03 a.m.

II. Attendance

Board Members Present:

Also Present:

Carl Holmberg
Kuilaoukalani Lester
Marion Haller
Scott Luck
Phyllis Robinson
Lee Aldridge, Vice Chair
Kenneth Okamura, Chair

Jeffrey Eng, Director
Eric Yamashige, Deputy Director
Edward Kushi, Deputy Corporation Counsel
Alva Nakamura, Engineering Program Manager
Holly Perdido, Fiscal Officer
George Andrade, Assistant Fiscal Officer
Jacky Takakura, Administrative Officer
Gaye Hayashida, Commission Support Clerk

Others:

Thomas Rice, Rice Farms LLC
Dr. Lorrin Pang, State Department of Health

III. Announcements

A. Introduction of New Board of Water Supply Member, Phyllis Robinson.

Chair Okamura announced that the new board member, Phyllis Robinson, will be late to this meeting.

IV. Approval of Minutes

A. March 22, 2007 Meeting

Motion: By Vice Chair Aldridge to approve the minutes of March 22, 2007.

Second: By Member Lester

Discussion: Vice Chair Aldridge asked to make the following 2 corrections. Page 6, 2nd paragraph, last sentence reads, "...the burden to the individual subdivisions." The word "to" should be replaced with the word "on". Then on Page 10, 5th paragraph, in the last sentence the word "decided" should be replaced with the word "determined".

Vote: Ayes – Unanimous. Motion to accept the minutes with corrections is carried.

V. Testimony from the Public

Thomas Rice of Rice Farms LLC gave public testimony on being denied an ag water rate. Mr. Rice is requesting a variance of the rules to receive ag water rates for his farm which is now zoned rural.

Mr. Rice testified that they applied for agricultural water rates with the Department of Water Supply on January 12th and received a denial letter dated January 30th. They did research on this and found out the denial was based on their R5 zoning. This property has been and is in active cultivation.

The property and the meter has had agricultural rates before, therefore they should be grandfathered in based on the fact that they still are in agriculture. The owner is still the same and the meter is still the same. It is just that now the party responsible for the bill is different.

The previous farmer had agricultural rates and the Rice's are doing the same thing -- growing crops.

Kenneth Okamura stated that while he was leasing the land the zoning changed to R5 in the 1990's. But because he was still using the land the water rate did not change.

Member Holmberg asked Mr. Kushi what was the rationale for this zoning change? Mr. Kushi stated that he recalls the County did something in the late 90's in conjunction with the community plan. They re-zoned on a mass basis to conform to the community plan.

Member Lester asked what is the process to have it re-zoned ag? Mr. Kushi replied he would have to apply again. Member Lester asked, even though Mr. Rice didn't apply to be R5? Mr. Kushi stated that there was a question at that time if proper notice was given to all the landowners.

Member Holmberg asked what is permitted activity on R5? Mr. Kushi replied that the definition of rural is a question of density and activity. It is between ag and residential. Rural is a separate classification in the State Land Use. The County just recently enacted their own rural zoning.

Director Jeffrey Eng stated that the Department has brought this before the Water Resources Committee to clamp down on the definition of ag use. When the budget meetings are over he is hoping they will look at the definition again so that things are fair.

Mr. Kushi stated that the Council's Water Resources Committee is currently reviewing the rules with the intent to codify it. One of the sections would be the existing Chapter 7, Rules for Charges for Water Service which Mr. Rice falls into so maybe through the Council's legislative process they can bring this matter up.

Mr. Kushi stated that as he reads it right now agricultural consumers are kind of locked in. There is no wiggle room because it says "derive farm income on county zoned or state designated agricultural lands."

Mr. Rice stated that they are recognized by the State Department of Taxation as dedicated ag but this does not affect the zoning.

Vice Chair Aldridge stated he understands the Water Resources Committee is considering changes in the regulations but that may take some time. He asked in the meantime is there any recourse this individual has? Can Mr. Rice come before this Board and be given any exception in the interim?

Mr. Kushi stated that the Council is considering giving this body appellate powers and if that passes then this Board will have jurisdiction to hear appeals from decisions that the director makes. The Board would then be authorized to affirm, waive, modify or reverse whatever the director puts in writing. Right now all the Board can do is make a recommendation.

Based on the language of the rule that Mr. Rice is appealing, Mr. Kushi believes there is no wiggle room. It is what it is, unless you change the rule or the ordinance. He doesn't see how the Board can grant ag water rates to county rural zoned property. If the Board grants this appeal what is to stop others similarly situated.

Member Holmberg asked how much of a hassle is it to re-zone from R5 to ag? Mr. Kushi replied it is not easy. Mr. Rice has to check with his neighborhood board, if any, then go to the Planning Commission, then they will make a recommendation to the Council and then the Council passes it in 2 readings. Mr. Kushi stated that he has never seen a re-zoning application shorter than 6 months.

Member Haller referenced Chapter 7, paragraph C which states “Existing lands with agricultural rate shall continue with that agricultural rate until the farm income use does not qualify for the agricultural rate.” It appears to her that Mr. Rice’s use continues to qualify. He had a tenant and now he is putting that meter back into his name, doesn’t that say that the land continues to be used and qualify for agricultural rates?

Chair Okamura stated that the Board cannot really discuss this issue because this is Public Testimony, but agreed that it is a good point.

Director Eng commented that the last sentence in paragraph C is what is overriding Mr. Rice’s qualification for an ag rate. He is being treated as a new water meter applicant and so the conditions at the time of his application for the service prevail. Therefore he doesn’t get grandfathered in.

Member Haller stated that one could read that way, but you can also not read it that way. The last sentence doesn’t say “except for” and it doesn’t qualify that the applicant differs from the land use. She would ask Mr. Kushi if he could find a hole there to allow Mr. Rice to continue to farm.

Chair Okamura told Mr. Rice that he needed to go back to the Department to try to clear up this issue. Before he could be placed on the agenda the Department has to review this and has to state their position. Mr. Rice can then come to Board if he is not satisfied with their response or decision.

Mr. Kushi asked if the land has been dedicated for real property tax purposes? Mr. Rice replied that it has been for a number of years. His father dedicated it to ag as soon as the zoning was changed.

VI. Unfinished Business

A. None.

VII. Communications

A. None.

VIII. Director’s Report

A. DIR 07-01 Fiscal Year 2007 Write-Offs.

Member Haller stated that this is a long time to carry some of these bills and asked what is the Department’s procedure. Does the Department give this to a collection agent?

Holly Perdido stated that after a certain period they turn over the accounts to a collection agency. The collection agency tries to collect and whatever they cannot collect is sent back to the Department to be written off.

Member Haller asked, the Department doesn't pay for those that is written off because the collection agency didn't get anything? Ms. Perdido stated that is correct.

Vice Chair Aldridge asked, why are some accounts on this list so old? Ms. Perdido stated that those accounts were with a previous collection agency, now the Department uses the County's collection agency. The Department waits for the collection agency to deem them as uncollectible before they write it off. Sometimes the Department gets some of the money back that were previously written off.

Motion: By Member Haller to accept the write-offs as proposed by the Director.

Second: By Member Holmberg

Discussion: None.

Vote: Ayes – Unanimous. Motion carried.

IX. Other Business

A. Verbal Update on Pookela Well.

Alva Nakamura, Engineering Program Manager, reported that next Wednesday, a 48-hour test is scheduled. This is the final test of the pump and motor and to make sure all the protective devices are properly operating. On April 30th, they will be tying the output of the well to the system. Then they will do the 48-hour test on Wednesday and Thursday. Assuming no problems crop up or that they are able to fix whatever problems do come up, the well will be ready for operations after Thursday. They are looking at completing the project by May 11th.

Member Luck asked, what will be the actual impact of this if everything goes as planned. Mr. Nakamura stated that this well's output is about a million four a day. In terms of additional meters, it might be very limited.

Director Eng stated that there will be some meters issued because this well was intended to be only a back-up. Right now it is ideal to have this back-up available because the Olinda Treatment Plant is doing a filter retro-fit project, Kapakalua Well is out of service, and in recent weeks Wailoa Ditch has been really low. With summer approaching we have to be real cautious as to how meters will be issued. But we do want to try to satisfy some on the priority list.

Member Haller asked for an update on where the Kamole Treatment Plant is at. How is it progressing and when will it come on-line? Director Eng stated that right now Kamole is the primary source for Upcountry. They are requesting in the '08 budget monies to change the membranes to more efficient and productive ones.

B. Discussion and Update on the Status on the Upcountry Maui Water Quality Issues (Lead Control Project).

Deputy Director Eric Yamashige stated that the project had 3 facets, the Boyle Report, the blood test to determine lead in mothers and children, and an education program. The education program and the Boyle Report are complete and the whole project will end in November. The 3rd facet is the blood lead level testing.

In the '08 budget there is an organic carbon reduction project for the Piiholo Treatment Plant. The Department is in the process of evaluating 2 methods, ion exchange and granular activated carbon (GAC). They have some information on the ion exchange method but they do not have the study on the GAC. Once they receive that the Department will evaluate it to determine which product they will go with. This is in direct response to the Boyle Report.

Member Holmberg asked what is the difference of using the activated charcoal at the treatment plant rather than at the household? Is it because at the treatment plant you have continual water going through so it is not sitting and acting like a petri dish. Deputy Director Yamashige replied, it is exactly that and the fact as a utility we will operate and maintain the facility much better. When you don't change the carbon filter bacteria will continue to grow.

Vice Chair Aldridge asked how does this address the lead issue? Mr. Yamashige stated that one of the ways lead was addressed was the increase on the ph level, to make the water less acidic thereby reduce the leaching of lead into the water. When the ph is raised it helps to promote the formation of disinfection by-products. The Department is making every effort to avoid using phosphates.

Dr. Lorrin Pang stated that carbon filters way upstream is very different than down in the house. It is more than just maintaining the filter. It is where you add the disinfectant. If it is in the home and you add the disinfectant then the in-home filter will remove the disinfectant. If you add the filter way upstream and take out the carbons and the organics, then add the disinfectant and take out the household filter then you will be delivering sterile water.

The microfilm creates micro environments which eat away at the pipe. To decrease the microfilm you starve it out by cutting off the nutrients – the phosphates, nitrogen and carbon. Remove the carbon and starve off the microfilm, which leads to less leaching of the lead.

Chloramines when added to the system raises the lead in the water. By removing the carbon hopefully we do not need to add chloramine.

Dr. Pang stated that lead at very low levels affects the developing nervous system of young children and pregnant women while their nervous system is developing in utero. At lower levels, for every 10 units in the blood the IQ will drop 7 points. The CDC has set a limit of 10 blood units (micrograms/deciliter).

Lead can come from anywhere, gas fumes from leaded gas, dust from paint chips, brightly colored ceramics. One source is lead in the water. Our Upcountry system of 33,000 users is quite unique to Hawaii. We are trying to make the surface water system look like the well system.

They were funded to test 2,000 but only 400 were tested and that is a good enough sample. Out of the 400, 7 were positive by the finger prick screening test, and of those 7 only 5 were re-tested by blood draw and they were negative. When you do the finger prick 10% will be false positive because of lead on the finger itself. Essentially there were no child in Upcountry who had elevated levels. They decided not to test the 2,000 because had you gotten zero out of 2,000 that doesn't change your confidence interval all that much. Some Upcountry people questioned whether the kids were actually drinking the water.

So they went back and phoned a 100 kids out of the 400 and asked them if they had been drinking the water. Essentially 64 of them don't drink the water, 36 kind of drink the water but they use filters. The question is how long have they been avoiding the water? One or two years is the response. If a person is drinking leaded water and you stop the water, it will be 6 months before the lead in the blood goes away.

Vice Chair Aldridge stated that some people have come before the board who believe that lead is in the source water. He asked if that was true or not. Dr. Pang stated that they measured the source water and there was one that was high but could never be repeated. He stated he hasn't seen lead in the water before it hits the tap in the house.

Vice Chair Aldridge stated that he has seen that most of the source of lead leaching from the plumping system is actually from the internal plumping system within the home. Director Eng replied yes, that is apparently the source.

Member Holmberg asked if the EPA still considers us to be using the provisional methods to "get the lead out", what happens if we sit and do nothing further? Dr. Pang replied that the water is lead free according to the latest tests. If the community insists on continuing the provisional measures then that cannot be helped.

Vice Chair Aldridge stated that the real problem appears to be the fact that the Department has to find a method of controlling lead that doesn't involve adding chemical agents that exacerbate the problem with biological growth or the side effects. That just means far more costs and more elaborate treatment systems.

Dr. Pang stated that according to the lead and copper rule we are ok. They can stop the provisional measures. But we are walking a tightrope, we are bumping our heads against the threshold for trihalomethane and now the heterotropic plate counts. We are ok on the lead but we are now pushing two other thresholds. He likes the GAC filter which might give us a lot of leeway to up this or lower that.

Director Eng stated that is absolutely correct. The organic carbon removal will allow us to do better disinfection and still minimize the production of any disinfection by-products. The ideal situation is organic carbon removal from all our surface water treatment plants in the future with proper chlorination.

Dr. Pang stated that all this other stuff from the community is a major distraction. Let's get on with it, everyone had agreed to it.

C. Discussion regarding the Issue of Staffing Shortages in the Department.

Chair Okamura asked if the Department is making progress as far as the staffing shortage in the Engineering Division? Director Eng stated that we are making a small bit of progress.

Mr. Nakamura stated that they have hired a half-time employee starting May 1st. Yesterday, they interviewed another civil engineer and are planning to offer him a position. They are now trying to determine the salary they can offer him.

Vice Chair Aldridge stated that he would like to see these vacancies filled but in the interim the planning resources and capital improvements keep falling behind. You will keep falling behind as development increases and you need to take a look at using some consultants who will act as an extension of the Department's staff for a short period of time. Have them prepare requests for proposals, review proposal, and help the Department manage the system.

Mr. Nakamura stated that in the past they have looked into that possibility. However under the civil service system there are 2 problems with hiring outside consultants. Number one, the outside consultants do not know the Department's standards to the degree that the staff knows. The second problem is that if they were to bring in an outside consultant, they would have to work under the direction of the staff. Because of these restrictions the Department has not pursued the hiring of consultants to any great degree.

Vice Chair Aldridge stated that there are a number of utilities throughout the country who have utilized this very method of improving their progress on capital improvements. All those same concerns and issues they have faced and overcome.

Director Eng stated that he has conferred with the HGEA union on this matter and they are supportive, though he hasn't bounced this off the County's Personnel Services Department yet. The local consulting firms do not have the manpower to help. The Mayor is looking into this and will be holding a meeting with a local consulting firm and has asked some of the department heads to attend.

Deputy Director Yamashige noted that what the Department is talking about is the permit review process and what Vice Chair Aldridge is referring to is CIP. He further stated that the Department does hire consultants to help with the CIP projects.

Vice Chair Aldridge stated that he realizes that the Department hires them on an individual basis, but what he is talking about is hiring a program manager as a consultant who can serve as an extension of the staff and actually develop the hiring, the review of designs done by a number of local consultants. Not for one project but for a number of them, basically as an extension of staff.

Member Luck asked overall, how many openings are we taking about? Jacky Takakura, Administrative Officer, stated it is about 20 to 25 in the whole department.

D. Discussion regarding the Annual Report for the Fiscal Year Ended June 30, 2006.

The Engineering, Fiscal and Personnel heads gave a brief overview on their section.

At this time the Chair introduced the newest board member, Phyllis Robinson, who just arrived. Chair Okamura noted that Ms. Robinson had a previous commitment and could not attend earlier.

Chair Okamura asked if there were any questions on the last section of the annual report – on the audit. The Chair asked Ms. Perdido on the Statement of Net Assets, you have 2 different investment figures, are those for 2 different funds? Ms. Perdido replied that the first is Unrestricted Funds (revenue funds) that come from the water rates. The Restricted Fund is the Water System Development fees and customer deposits.

Page 50, Statement of Cash Flows, Cash Flows from Investing Activities. Chair Okamura asked, is that what it is, the one in parenthesis is an increase? The members agreed that the decrease should be in parenthesis.

Page 51, Statement of Cash Flows, the \$7,141,198 is left over money for the year. Chair Okamura asked, so what do you do with that? What happens to that? Ms.

Perdido replied that because of depreciation, a non-cash asset, we have \$10.7 million that is additional net cash. So whatever cash is left over is used in the next year's budget.

Vice Chair Aldridge stated that the carryovers give a false sense of security because they are really due to the fact that they are not spending all the money that you would have spent had all the positions been filled. His concern is that people will look at this and get the wrong conclusion from it.

Member Luck noted that on page 57 the column on the left should be 2006 not 2005. He asked if someone could explain the debt service coverage? Ms. Perdido stated that most of the debt we currently have are bonds. We need to maintain a 1.15 to 1.25 debt service coverage ratio. Director Eng further explained that it is the net operating income divided by the total amount of debt service.

X. Division Reports

There were no questions or comments regarding the division reports.

At this time the Chair asked Ms. Robinson to introduce herself.

Member Robinson stated that she lives in Maui Meadows since December 2005. She came to Maui from Massachusetts where she spent the last 25 years of her life. She has a doctorate in education and most of her work has been involved in adult education. She has been teaching Emotional Intelligence in the Workplace at MCC.

Currently she was appointed by the Center for Children's Justice to be a researcher, helping them to create a plan for the prevention of child mal-treatment in Maui County.

At this time the Chair asked for suggestions for future agenda items

1. Long term plan to address Upcountry water shortage issue and on the annual drought situation.
2. Discussion on the water meter list

Director Eng asked Chair Okamura for a copy of the recommendations on the Water Conservation Plan that was developed by the Board last year. He would like to pass this on to the Council.

XII. Adjournment

The April 26, 2007 Board of Water Supply meeting was adjourned at 11:10 a.m.

Prepared and submitted by:

Gaye Hayashida
Commission Support Clerk

Approved on: _____