

County of Maui Water
Supply

BOARD OF WATER SUPPLY

County of Maui

Regular Meeting

Thursday, October 19, 2006

9:00 a.m.

Planning Department Conference Room

First Floor, Kalana Pakui Building

250 South High Street

Wailuku, HI 96793

I. Call to Order

Chair Michael Victorino called the October 19, 2006 Board of Water Supply meeting to order at

9:06 a.m.

II. Attendance

Board Members Present:

Also Present:

Carl Holmberg

George Tengan, Director

Michael Howden

James Giroux, Deputy Corporation Counsel

Lee Aldridge

Eric Yamashige, Deputy Director

Marion Haller

Alva Nakamura, Engineering Program Manager

Kuilauokalani Lester

Herb Chang, staff engineer

Scott Luck

Helene Kau, Assistant Fiscal Officer

Ginny Parsons

Jacky Takakura, Administrative Officer

Vice Chair Kenneth Okamura

Gaye Hayashida, Commission

Support Clerk

Chair Michael Victorino

III. Announcements

Chair Michael Victorino introduced the newest board member, Scott Luck of Lahaina who currently is

the vice president of Lieberman Research Worldwide. Mr. Luck has a BS in Journalism from Arizona

State University and an MBA in Operations and Marketing from Vanderbilt University.

The Chair announced that he invited Michelle Anderson, Chair of the Water Resources Committee to

attend today's meeting to hear R. W. Beck's presentation.

Also the Chair also announced that he has sent a letter on behalf of the Board congratulating Daniel

"Gundi" Dancil, the recipient of the 2006 William Y. Thompson award at the HWWA Conference on Kauai.

Chair Victorino spoke about the HWWA Conference attended by Vice Chair Okamura, Members Aldridge

and Lester. Now a separate meeting for all the boards will be held as part of the regular agenda

at the AWWA, HWWA conferences and at the state meeting in May.

Chair Victorino stated that the damage on the Big Island from the earthquake is extensive and it

will be costly and time consuming to do the repairs. There is so much that the news has not covered.

The Chair thanked all the people and agencies involved for their immediate response to this disaster.

IV. Approval of Minutes

Motion: By Member Lee Aldridge to approve the minutes of September 21, 2006.

Second: By Member Marion Haller

Discussion: None.

Vote: Ayes - Unanimous. Motion carried.

V. Testimony from the Public

A. None.

VI. Unfinished Business

A. None.

VII. Communications

A. COM 06-12 Letter from Linda Taylor Engineering, Inc. on behalf of Jeanne Anderson, Upper

Kimo Road, tmk (2) 2-3-021-001, requesting the Board addendum the DWS standards for fire protection

for this property.

Fiona van Ammers, representing Jeanne Anderson, asked the Board to postpone this appeal until the

November meeting so that Ms. Anderson and her attorney, Blaine Kobayashi, could meet with the

Director, department staff and the department's legal counsel to resolve this matter. A copy of

Blaine Kobayashi's letter to Director Tengan was submitted to the Board.

The Chair stated that this agenda item will be deferred until the November meeting.

B. COM 06-14 Letter from Jennifer K. Mondello-Phillips, tmk (2) 2-3-003-044, appealing the

decision of the DWS and requests subdivision approval for this property.

At this time Ms. Mondello-Phillips read her written testimony to the Board. A copy is attached and

made of part of these minutes.

The Chair asked for a specific time-line. Ms. Mondello-Phillips stated that this began in 2002,

when the 10 acres were transferred from 10 siblings to the 3 siblings, Robert, Alberta and Clothilda.

They applied for permits in January 2003 and the house was finished by

May 2004. After the house

was built, Phase 1 of the subdivision was approved. Four acres went to Robert and 6 acres went to

Alberta and Clothilda.

Chair Victorino asked when the Phillips got the building permit approved and moved the meter over

to their side, and up to that point no one had said that this will not be allowed? Ms.

Mondello-Phillips replied no.

Ms. Mondello-Phillips stated that they discussed doing a catchment system but there is not enough

water and they would have to truck the water in. She further stated that this parcel already has 2

meters and they are on the wait list for meters on the parcel owned by Alberta and Clothilda. What

they are asking for is that their Phase 2 subdivision to be completed, the 4 acre parcel be split

into equal parcels with meters. She explained that both houses are on the 4 acre parcel.

Alva Nakamura, Engineering Program Manager, read excerpts from the staff report. Because this

property was subdivided under Maui County Code 18.02.020(C), the Department is not given the

opportunity to comment or recommend final subdivision approval and therefore this particular

subdivision just by-passed the Department. Subsequently, this subdivision was granted approval on

May 9, 2005 by the Department of Public Works without a review by the Department of Water Supply.

There was no problem in re-locating the meters because they were on the same lot. But when they

came in wanting to subdivide Lot 1-A into 2 parcels that's where the problem is, because they are

missing one water meter. It is the Department's understanding that they came for subdivision

approval after the dwelling was completed and after the meters were re-located.

Member Parsons stated that the clarification should be when was the subdivision request put in and

when did you request the meter to be moved.

The Chair asked if Ms. Mondello-Phillips has a copy of when this subdivision request went in.

Member Parsons asked for a recess so they could go to the permit office and pull up the information.

The Chair said no.

Member Howden asked that this be deferred because the Board does not have all the information to

make an equitable decision at this time. He then asked the Phillips if they would accept a one

month deferral. Robert Phillips, Sr. replied only if they have to and added that they did follow

the rules and spent the money. So it's not their fault. But if he has to wait one more month

then it would be worth it.

At this time the Chair called a ten-minute recess so Member Parsons could go and get the information

from the permit office.

The Board reconvenes.

Director Tengan stated that the issue the Board needs to decide on is when was the

consolidation/subdivision done. Based on the staff report, the subdivision code states that upon

subdivision each lot needs to be provided with a water service. Should one of these meters have

been assigned to the 6 acre parcel? Is another meter required here because they want to subdivide

the 4 acre parcel?

Member Parsons showed that the 2 lots (1.02 acres and 10.31 acres) were consolidated into one large

parcel then it was subdivided into 6.963 acre and 4.380 acre parcels. There never was a meter on

the 6.963 acre lot and but there were 2 meters on the 4.380 acre parcel. Before the consolidation,

both meters were on the 1.02 acre lot.

The Director stated that if that is the case then the staff report is in error and he would like

the staff to clarify this.

Herb Chang, staff engineer, stated that the Engineering Division's understanding is that there

were never 3 lots based on the information from DSA or from the Tax Map Keys.

Member Aldridge asked if the 2 meters were originally assigned to the 1.02 acre lot. Mr. Chang

replied that the 1.02 acre lot and the 10.31 acre lot had the same tmk number and doesn't know if

the intent was to have one meter for the 1.02 acre lot and one meter for 10.31 acre lot and added

that it could make a difference. The Department makes sure the tmk is specified so that they know

exactly what parcel is being applied for and makes sure that that meter stays with that parcel and

does not serve any one else.

The Director stated that although the Board cannot make the final decision based on the Charter

provisions, they still can make a recommendation.

Member Howden stated that according to Deputy Corporation Counsel Ed Kushi, even though the Charter

Amendment passed, there are no new rules in place so the Board is still working under the previous

rules and regs and that the Board does have the authority to make decisions.

The Director stated that Mr. Kushi's statement included that the Charter Amendments overrides the

Board's authority and the Charter specifically states that the Board shall make recommendations to

the director, mayor and the council. As far as the Board making final decisions, the Charter

Amendment took that away. When the rules are contrary to the Charter Amendment the Charter would

then override the rules.

Deputy Corporation Counsel James Giroux stated that the Charter would overrule the Board's final

decision and therefore the Board's final decision would be a recommendation to the Department.

But the Board's analysis would be based on the pre-existing rules.

Motion: By Member Aldridge to recommend to the Department to waive the

rules to be equitable

because this would have no impact to other users of the system and allow the Phillips to have the

2 meters in order to proceed with the subdivision for the 4 acre parcel and be on the waitlist for

the 6 acre parcel.

Second: By Member Howden

Discussion: At this time the Director asked the Board to consider the provisions in the Water

Meter Issuance rules for the Upcountry water systems.

§16-106-08 Waiver or modification. 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.

Vote: Ayes - Unanimous. Motion carried.

VIII. Director's Report

A. None.

IX. Other Business

A. Presentation by Ann Hajnosz, Senior Director, R. W. Beck, to recap Recent Budget Increases and

on the Proposed Rate Design.

A copy of this slide presentation is attached and made a part of these minutes.

Member Parsons expressed concerns regarding encouraging Upcountry users to continue flushing the

lines in their homes at the same time sending a strong conservation signal to these users. Ms.

Hajnosz stated that conservation is primarily focused on outdoor usage. They are trying to develop

a rate structure that promotes wise use of water and not to penalize people. As for indoor usage,

she can get the information from the Department as to how big of an impact flushing is.

Member Howden stated that we should be creating incentives for the development and legality of grey

water systems and catchment for water storage.

Vice Chair Okamura informed Ms. Hajnosz that the Board has not approved the budget yet.

Chair Victorino stated that in the past the Board made recommendations to the Council with some

authority, but now the Board can only make recommendations.

Ms. Hajnosz stated at the next water board meeting the staff will have the draft rates. By the end

of November the DWS staff has to send the budget package to the administration, then in December

and January the budget will be reviewed by the administration. By the end of February the Mayor

approves the budget then it is sent to the County Council by March 15th. At that time R. W. Beck

will be making a full presentation to the full council to explain the rate proposal.

Ms. Hajnosz asked for the Board's feedback on whether they think that the direction the Department

is heading is the way to go.

Member Parsons asked if the meter fee is enough. Does development need to put more money in? Should

we look at other alternatives? Ms. Hajnosz stated that is a question that was posed to the Budget

Director.

Member Aldridge stated that as he understands it, any funds remaining at the end of the fiscal year

could go into the capital reserve fund, unlike the county general fund. Ms. Hajnosz clarified by

stating that is at the end of the year.

Chair Victorino further clarified that it cannot be budgeted in.

Ms. Hajnosz continued by saying how much can the Department spend on an annual basis for capital,

because that is the amount of money that you can budget. If you budget \$30 million for capital in

fiscal year '08, can you spend that amount in fiscal year '08. Can you encumber that money in a

18 month time period? If you don't, it can go into the revenue fund. But the chances of the

County Council and Mayor approving that level of capital spending in the future is going to come

into question, if they perceive that you aren't able to spend your capital then why are you asking

for all that money.

Ms. Hajnosz stated that the recommendation from the Water Rate Stakeholders Committee was, do we

need a charter amendment for the Water Department to be able to create a sinking fund to accumulate

funds for capital?

The stakeholders committee wanted to not only separate single family but also separate out multi-

family but the problem is data. In order to design a multi-family rate, you need the number units

in each one of those facilities. That data proved very difficult to get. Without that data, the

number of units per multi-family account, we cannot design multi-family rates.

You can design a rate structure that is equitable but the administration of that is going to consume

the Water Department. You would be constantly trying to accumulate data. What we are trying to do

is to minimize the impact on people.

Member Parsons asked if Ms. Hajnosz could get the rates for the private systems. Ms. Hajnosz

replied yes.

Vice Chair Okamura suggested that at the next Budget Workshop session that one of the recommendations

could be to request the Council to contribute County general funds to the Department for CIP.

Vice Chair Okamura stated that regarding the single family rate structure it is a good idea that we

go to the fourth tier.

Member Haller stated that adding a service charge is easier to take and would like to see it become

comparable to what the other counties are charging.

Chair Victorino stated that he would go against adding a service charge because there are too many

people on fixed income who would be adversely affected. There are other ways of doing this.

At this time the Chair thanked Ms. Hajnosz for her presentation.

B. Discussion/possible action regarding the Conservation Plan Committee and an Update by Members

Lee Aldridge and Michael Howden.

Member Aldridge stated that they do not have any discussion on this but that both he and Member

Howden received a copy of the Maui County Water Use and Development Plan candidate strategy and

it was marked Very Preliminary Draft. They are concerned that this will not get completed in a

timely manner due to the short staff at the Water Resources and Planning division. The Water

Conservation Plan is really an element of this Water Use and Development Plan.

Member Howden stated that it is very disturbing to see the understaffing throughout the Department

and feels it is almost immoral to take up the Water Resource and Planning's staff time.

Chair Victorino asked Director Tengan if this is supposed to be completed by December. Director

Tengan stated that he was not aware that we are quickly approaching a deadline on this but he does

know that the Council through the Water Resources Committee wants to expedite this process. We

will be looking at the possibility of having a third party take charge of completing the project.

Member Parsons stated that the staffing shortage is a major problem and we need to figure out how

to recommend salaries. She also stated that at the Water Resources Committee meeting the committee

passed unanimously an approval to bring the Boyle engineering EPA Peer Review study. There will

be site tours and thinks this is a great opportunity for the Board to see these sites. There also

was unanimous approval by the committee to do a Comprehensive Evaluation Report of the Upcountry

system.

Member Parsons suggested that a committee of 2 members of this Board volunteer to work on this panel

with the EPA.

Members Holmberg and Luck volunteered for this committee.

Chair Victorino stated that he will draft a letter to Council to extend the conservation plan.

Member Holmberg suggested that it would be better to have a simple conservation plan in place than

nothing at all. As for the engineering staff shortage we may have to hire a consultant to do the

work.

C. Discussion regarding EMI Master Water Agreement and Amendments.

Member Howden stated that all the members should have received a copy of the Native Hawaiian Legal

Corporation's brief regarding the East Maui water system. The Board will not be able to discuss

in-depth today and recommends that each member of the Board take a very careful look at this.

Member Holmberg stated that though he agrees with the findings of fact he reminded that Board that

this is a major corporation that they are dealing with and he is concerned as to what their response

will be.

D. Discussion regarding Design and Projected Uses/Users of the Dual Line.

Member Howden spoke to Mike Hayashi who is running this and they want to mimic the County lines

especially in the last phase. It would be a major tactical error to run a huge line down Middle

Road. Member Howden would like to create an official dialogue with them in order to have a

meaningful interface with these engineers in Honolulu.

The chair will write a letter requesting Mike Hayashi to attend a Board meeting to discuss the

dual line. Deputy Director Eric Yamashige will look into who is working on this from the

Department.

E. Verbal Update on Pookela Well.

Alva Nakamura, Engineering Program Manager, stated that in terms of construction, they are about

99% there. Once the chlorination room is done then the well will be ready to run. By mid November

they will run the pump, and then take a water sample.

F. Election of Chair and Vice Chair

Nominations for chair are Ginny Parsons and Kenneth Okamura.

The Chair asked that members write their choice on a paper and after it is collected he will have

Deputy Corporation Counsel James Giroux tally the count.

Ginny Parsons received 4 votes and Kenneth Okamura received 5 votes. Kenneth Okamura is the new

chair.

Nominations for vice chair are Ginny Parsons and Lee Aldridge. At this time Member Parsons

declined the nomination for vice chair.

Motion: By Member Howden to accept Lee Aldridge as the vice chair.

Second: By Member Kenneth Okamura

Vote: Unanimous. Motion carried. Lee Aldridge is the new vice chair.

G. Receipt of Board Members request for agenda items to be placed on future agendas.

1. Boyle Report

2. Update on Water Use and Development Plan and the Water Conservation Plan

3. Update on Water Resources Committee's ordinance requiring the county to be advised of any new wells.

4. Presentation on Safe Water by Ginny Parsons

5. Feedback from private users on overall consumption. The Deputy Director to report back on this.

X. Division Reports

XI. Adjournment

There being no further discussion the October 19, 2006 Board of Water Supply meeting was adjourned

at 12:45 p.m.

Prepared and submitted by:

Gaye Hayashida

Commission Support Clerk

Approved on: _____

"By Water All Things Find Life"

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