

MINUTES

DEPARTMENT OF WATER SUPPLY  
COUNTY OF HAWAI'I  
WATER BOARD MEETING  
July 27, 2004

HILO OPERATIONS CENTER CONFERENCE ROOM

MEMBERS PRESENT: Mr. Earl T. Nakashima, Chairman  
Mr. Thomas Goya  
Ms. Pamela Hons  
Mr. Bernard Konanui  
Mr. Leonard Tanaka  
Mr. George Wilkins  
Mr. Milton D. Pavao, Manager (ex-officio member)

ABSENT: Mr. Ivan Mochida, Vice-Chairman  
Mr. Loren Heck, Water Board Member  
Ms. Sandra Scarr, Water Board Member  
Mr. Christopher J. Yuen, Planning Director (ex-officio member)  
Mr. Bruce McClure, Director, Department of Public Works  
(ex-officio member)

OTHERS PRESENT: Ms. Katherine Garson, Deputy Corporation Counsel  
Mr. Ralph Kanetoku, KPMG LLP  
Mr. Grant Nakagawa, KPMG LLP  
Ms. Kim Miyoshi, KPMG LLP  
Mr. David Rietou  
Mr. Steve Bowles  
Mr. Stephen Lim, Carlsmith Ball, LLP

Department of Water Supply Staff:

Mr. Quirino Antonio, Deputy Manager  
Mr. Glenn Ahuna, Engineering Division Head  
Mr. Dennis Lee, Chief of Operations  
Mr. Richard Tsunoda, Waterworks Controller  
Mr. Richard Sumada, Assistant Waterworks Controller  
Mr. Daryl Ikeda, Operations Division

CALL TO ORDER: Chairman Nakashima called the meeting to order at 10:03 a.m.

STATEMENTS FROM THE PUBLIC:

None

APPROVAL OF MINUTES:

ACTION: Mr. Wilkins moved for approval of the Minutes of the June 22, 2004, Water Board Meeting; seconded by Mr. Goya and carried unanimously by voice vote.

APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA - None

SOUTH HILO:

A. **AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2003:**

Mr. Ralph Kanetoku, Partner, from the accounting firm of KPMG LLP was present to answer questions from the Board regarding their audit report.

Mr. Wilkins mentioned the entry, "contributions in aid of construction." The impression was that it was people helping to pay for capital assets that the DWS is installing. He never saw a clear enough definition of that, or examples, to know what the term means. In the future, he thought the explanation should be extensive enough to make it clear to the reader.

Mr. Sumada's explanation of it--amounts that are dedicated to the DWS by developers for reservoirs, wells, distribution mains, meters, and large property items--was clear to Mr. Wilkins; but he did not find it in the text. (Mr. Sumada mentioned a footnote in the financial statements, Item J, where it can be expanded to make it clear.) Mr. Wilkins stated that the reason for his suggestion is that if something is written down, it becomes factual knowledge. If not, it rapidly becomes legend.

Mr. Kanetoku responded that they could add some samples.

Mr. Goya asked if a timeframe could also be included in the samples on the contributions in aid, such as how far in advance the money is requested from the developer and how it is being used.

Mr. Sumada explained that the dedications are made to the Department after the development is completed and the Department takes over maintenance of the system.

Mr. Goya asked if sometimes the Department is getting a dedicated system with stubouts--not necessarily revenue producing income at that time.

The Manager explained that contributions in aid also account for situations where developers construct water systems and have to connect to a water system. They put in monies so that the Department's personnel can actually do those connections. It happens all year round at different times.

Mr. Tsunoda added that another major contribution is the facilities charge collections.

Chairman Nakashima thanked KPMG LLC for their report.

(Messrs. Kanetoku and Nakagawa and Ms. Miyoshi left the meeting at 10:16 a.m.)

## MOVE AGENDA ITEM UP

There being no objections, Item 7(A) WAIAHA WATER SYSTEM MEMORANDUM OF AGREEMENT, was moved up.

### NORTH KONA:

#### A. WAIAHA WATER SYSTEM MEMORANDUM OF AGREEMENT:

The Department has been in negotiations with the Waiaha Water System LLC, Dan Bolton, as their Managing Member, to forge a formal agreement memorializing respective responsibilities of each party for the construction of a water transmission and storage system from the new Waiaha Well to service portions of Kailua. Despite these negotiations, there are several remaining items that need to be more clearly defined or quantified, such as the exact number of participants in the LLC, total cost of the water system, respective water units, and pro-rata cost allocation to all parties.

The Department is desirous of completing such a water system, which would allow the transmission of water to Kailua in order to responsibly meet the water needs of the area. Collaterally, participants in the LLC, as developers, are seeking additional water for their respective developments. As such, it is in the best interest of the Department, the community, and the LLC to be able to continue these negotiations such that a definitive formal agreement can be finalized.

Therefore, it has been decided to prepare and execute a Memorandum of Agreement to memorialize prior agreed to items; to enable the LLC to continue the design, engineering; an acquisition of property rights, title and interests such that a Final Agreement can be prepared with the mutual satisfaction of all parties.

The Manager recommended that the Board approve the Memorandum of Agreement, subject to the approval of the Corporation Counsel as to form and legality and that either the Chairman or the Vice-Chairman be authorized to sign the document.

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

In response to Mr. Wilkins' questions about the type of agreement this is, Ms. Garson explained that it is a documented agreement by the Board to go ahead with negotiations with the parties involved. The final agreement is still under negotiations. If an agreement cannot be reached within one year, the Department/Board has no further obligations.

Mr. Tanaka noted that along with the needed easements, the parties are also doing construction, and added that this is a great deal and future deals of this type should be encouraged. (The Manager agreed.)

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

SOUTH HILO (continued):

**B. JOB NO. 99-737, CONSTRUCTION OF THE AKAKA FALLS ROAD WATERLINE REPLACEMENT:**

Bids for this project were opened on July 15, 2004, at 2:00 p.m.; and the results were enumerated in the Agenda.

This project consists of furnishing and paying for all labor, materials, tools, and equipment necessary for installing 2,200 feet of 8-inch and 150 feet of 6-inch double poly-wrap ductile iron waterline, fire hydrants, related service laterals, and road resurfacing within Stable Camp Road in Honomu.

Project Cost:

1) Low Bidder (Willocks Construction Corporation)	\$326,410.96
2) Construction Contingency (15%)	\$ 48,961.64
Total Construction Cost:	<u>\$ 375,372.60</u>

Funding for this project will be from the CIP funds. The contractor will have 120 calendar days to complete this project.

The Manager recommended that the Board award the contract for JOB NO. 99-737, CONSTRUCTION OF THE AKAKA FALLS ROAD WATERLINE REPLACEMENT to the lowest responsible bidder, Willocks Construction Corporation, for their bid amount of \$326,410.96 plus \$48,961.64 in construction contingency for a total contract amount of \$375,372.60, and that either the Chairman or the Vice-Chairman be authorized to sign the contract, subject to review as to form and legality by Corporation Counsel.

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

**C. JOB NO. 98-705, HONOMU EXPLORATORY WELL:**

The Board considered a 90-calendar day time extension request to this project. The request was due to the lack of a Well Construction Permit for the well drilling. Due to a misunderstanding between staff and the State Commission on Water Resource Management (CWRM), the Well Construction permit was not fully executed. This is a second time extension request for the project. A previous request for a 59-working day extension was granted at the April 27, 2004, Water Board Meeting.

The Manager recommended that the Board approve a contract time extension of ninety (90) calendar days from August 12, 2004, to November 10, 2004, for JOB NO. 98-705, HONOMU EXPLORATORY WELL.

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

Mr. Wilkins noted that the contractor has not asked for additional funding, and thought there would be a request from them due to the error by DWS staff.

The Manager replied that the contractor would have the right to request for it, but has not asked for additional funding.

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

D. **RESOLUTION NO. 04-03:**

This Resolution is being introduced for the condemnation of a portion of Tax Map Key 2-5-008:024 for the purpose of constructing a 2.0-mg reservoir, transmission waterline, and related road. This storage is to replace an existing reservoir in Chong Subdivision that has no practical storage and be able to transmit water to the Hilo service area. This condemnation is necessitated because the landowner has not been responsive to DWS' repeated inquiries as to the purchase of affected real property.

The Manager recommended that the Board approve this Resolution and authorize the Department and Corporation Counsel to continue with the condemnation process.

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

Mr. Wilkins asked if the write-up given meant that the landowner is not responding at all or if they are not agreeing to any terms.

Ms. Garson replied that the landowner's attorney has not responded to her last communication since May of this year. Her telephone calls are not being returned. It is to the point now where we need to go through with the condemnation process. In response to Mr. Wilkins' concern if they have any legal grounds for saying they have not been negotiated with, Ms. Garson assured him that the proper avenues have been taken. She explained that if this Resolution is passed today, it gets introduced and published, and finally gets approved and adopted at a future meeting. There is time involved and even after the Board approves a condemnation, there is nothing preventing negotiations from continuing to take place.

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

**SOUTH KOHALA:**

A. **JOB NO. 97-684, CONSTRUCTION OF THE PUUKAPU-NIENIE BOOSTER PUMP STATION NO. 1 & NO. 2 REPLACEMENT:**

The Board considered a request from Dick Pacific Construction Company, Ltd., for an extension of contract time. This would be the second time extension to the contract. Staff has evaluated this request and finds that the 31-calendar day extension is justified.

The Manager recommended that the Board grant Dick Pacific Construction Company, Ltd., a 31-calendar day extension for JOB NO. 97-684, CONSTRUCTION OF THE PUUKAPU-NIENIE BOOSTER PUMP STATION NO. 1 & NO. 2 REPLACEMENT, from July 30, 2004, to August 31, 2004.

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

NORTH KONA:

A. WAIAHA WATER SYSTEM MEMORANDUM OF AGREEMENT:

Taken up earlier.

B. GREENWELL WATERLINE EASEMENT:

Mr. Ahuna explained that this item involves a Tax IRS sale. There was a window where Mr. Kelly Greenwell was going to deed the property through the payment of the taxes that were owed through a third party. Staff was trying to get, through that window, a transaction before this Board Meeting; but Mr. Greenwell was not able to give it to the Department in that timeframe. The Department will have to go back to the new owner to try and get that easement.

Therefore, he recommended that this Item and also Item 8(A), DEDICATION OF WATER SYSTEMS, Number 1, Grant of Easement (for waterline purposes), Grantor: Robert Kelshaw Greenwell, TMK 7-4-008:portion 047, be deferred until such time as the easement is obtained.

DEFERRAL ACTION: Mr. Tanaka so moved for deferral of Items 7(B) and 8(A)#1; seconded by Mr. Goya and 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**  
(For Waterline Purposes)

**Grantors: Robert Kelshaw Greenwell**

**TMK: (3) 7-4-008: Portion 047**

**Note: Deferral of this Item #1 made and seconded by Messrs. Tanaka/Goya. See above Item B, Greenwell Waterline Easement.**

2. **GRANT OF EASEMENT AND BILL OF SALE**

Miyamoto Lots (Subdivision Application No. 2002-012)

E.W.O. NO.: 2004-042  
Grantor: Michael M. Miyamoto, et al.  
TMK: (3) 2-2-048;por. 014 and 091  
Lots: 6  
Zoning: FA-1A  
Facilities Charge: \$22,000.00  
Final Inspection Date: 01/05/2004  
Water System Cost: \$18,550.00

3. **GRANT OF EASEMENT AND BILL OF SALE**  
Moana Vista, Phase 2 (Subdivision Application No. 2002-124)  
E.W.O. NO.: 2004-036, 2004-039  
Grantor: Keven H. and Patricia D. Rinckenbach and Charles Adams  
TMK: (3) 7-3-005:098  
Lots: 8  
Zoning: RS-15  
Facilities Charge: \$25,850.00  
Capital Assessment Fee: \$4,000.00  
Final Inspection Date: 07/01/2004  
Water System Cost: \$115,000.00
  
4. **GRANT OF EASEMENT AND BILL OF SALE**  
Kuakini Self Storage Facility  
E.W.O. NO.: 2004-035  
Grantor: Kuakini Self Storage, LLC  
TMK: (3) 7-6-024:034  
Final Inspection Date: 07/06/2004  
Water System Cost: \$15,309.33
  
5. **GRANT OF EASEMENT AND BILL OF SALE**  
Laupahoehoe Seacliffs (Subdivision Application No. 95-062)  
E.W.O. No.: 2001-082  
Grantor: James Randall Herold  
TMK: (3) 3-5-004:002  
Lots: 6  
Zoning: A-1a  
Facilities Charge: \$28,690.00  
Final Inspection Date: 11/25/2003  
Water System Cost: \$55,025.00

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.

**ACTION:** Mr. Tanaka moved for approval of Numbers 2 through 5; seconded by Mr. Goya and carried unanimously by voice vote.

**B. STRATEGIC PLAN/ANNUAL BUSINESS PLAN:**

Informational presentations were made by the “champions” of the first three Strategic Initiatives and Tactics listed in the 2004-2005 Annual Business Plan as follows:

1) Wanda Kapahu

Ms. Kapahu handed out an outline of her tasks. She will need to work with Division Heads to identify any job classifications existing and also create new classifications, as needed. First staff identifies core competencies for current and future needs of the Department. The handout shows existing positions and classes in each division. Classes are general descriptions of positions in the Department. For example, pipefitter is one, and the Department may have several positions within that class. Specifies the duties to each section or division requirements. Once we identify all core competencies and work with class specifics to update those within, the next step is to update our Position Descriptions to match specifications. The third step is to revise the Table of Organization to reflect the new classes and positions.

Mr. Wilkins mentioned two terms used in New Zealand and Australia in writing job classifications in Civil Service positions, which he grew to hate. He requested that this Department not use those terms in describing its positions--one is “superannuated,” another word for saying you are too old; and the other is “redundant,” a way of saying we are going to get rid of you and your job description.

Ms. Kapahu took Mr. Wilkins’ suggestion under advisement.

Mr. Tanaka asked Ms. Kapahu if she expects challenges from the unions if there are changes to responsibilities, scope of work, etc.

Ms. Kapahu replied that if the unions are brought into the process early enough to allow their input, there should be no problems. The Department has been able to work with them in the past. They are generally receptive to technical changes and updating of positions. The only problems would be if the Department were to have massive layoffs, but that is not something this organization expects.

Mr. Lee gave an example of what his Division is trying. An example would be the Water Plant Operator position where the person checks the Department’s facilities. Currently, if that person finds a problem, either mechanical or electrical, they would call on mechanical or electrical personnel to come fix the problem. In the future, when these positions become vacant, the goal is to transfer their positions to mechanical or electrical positions. By doing that, the person could do the repairs on the spot. The union has been receptive to this idea.

Mr. Wilkins asked Mr. Lee if there is a quid pro quo here that if you upgrade a person’s job description to recognize additional skill levels that are needed, there would also be upgrading of the basic salaries for that same job description. Therefore, the employee gets

something, and the union gets something, in addition to giving something back. It would tend to make the union more willing. (Mr. Lee replied in the affirmative.)

In response to Mr. Goya's question if the entry-level standards are being upgraded, and if there are workers in the marketplace to fill these positions, should they be upgraded, Ms. Kapahu replied that the standards are set statewide. Therefore, if this Department upgrades entry-level standards, it would have to be a statewide conversion. She added that there are no plans to upgrade the entry-level standards right now.

2) Keith Okamoto

Mr. Okamoto provided a handout and informed the Board that his tactic is to review, revise, create, and adhere to business processes to efficiently utilize human resources and proactively address standards and regulations. A lot of the Department's critical business functions had to be documented. One of the first tasks that will need to be done is to identify which tasks are critical business processes and then to document them. Presented in his handout are "first cut" looks at a few of these business processes in flow chart form. He noted that the first three sheets have to do with the processing of "as-built" plans, which fall under Engineering Division. The next six sheets with the shaded areas are water quality functions. The last page is tasks for the Water Resources and Planning Branch. He noted there is a long way to go in these processes, but that these will also be instrumental in the training process for new employees eventually.

In response to Chairman Nakashima's question if this has been initiated already, Mr. Okamoto replied that it has. This shows what has been done so far--not only in his branch, but also in the whole Engineering Division.

Mr. Tanaka asked whether the title, "Bill's Process Flow Diagram," meant bills, or invoices, or a person's name.

Mr. Okamoto replied that it is the engineer's name who worked on it; but eventually, these processes will be standardized and not have individuals' names on them.

Mr. Tanaka asked what has been the feeling from employees in Mr. Okamoto's section of the whole strategic planning process and if they are giving their support.

Mr. Okamoto replied that he could only speak for himself and on behalf of his immediate staff, and that it is welcomed, but with some reservations. They do not want to see a lot of talk--they have a "show me" attitude. He thought that for the most part, it is a positive thing. At least they have a say in the process.

The Manager added that there are mixed feelings within the Department--some "show me," some say "wow, that is a lot of extra work," and some question if this can really be done. It is the intent of the planning manager to smooth things out and make sure it does get done. Once the employees start seeing some progress, he feels there will be a huge buy-in.

Mr. Wilkins felt there is a great value in the flow charts as an instructional tool for the younger employees. For the same reason, there may be opposition from the "old-time"

employees who regard their knowledge as some kind of a guild and may be reluctant to share it.

The Manager added that it is one thing to do your job on a day-to-day basis; but to put down on paper what you do, it is difficult.

Mr. Goya stated that he has gone through a process like this one while working with the electric utility and advised everyone not to be discouraged.

3) Daryl Ikeda

Mr. Ikeda explained the process he will be undertaking with respect to Job Performance Reports (JPR's) for which employees are rated. He will be working with Ms. Kapahu, the Department's Personnel Management Specialist, and the Division Heads in an effort to standardize JPR's to apply to specific positions. Currently, there is one standard form for all positions within the Department. It would be more useful if everybody knows what their roles and responsibilities are and are rated accordingly. It is also for the supervisors to get a better feel between themselves and their subordinates. Each supervisor will know what is expected of his/her employees, and the employees will know what is expected of them. It will bring consistency.

Mr. Goya commented that Mr. Ikeda has one of the most difficult tasks because of the different classes of work and different supervisory and employee opinions. This is especially difficult if you do not have a working relationship with the employee or the supervisor.

Mr. Ikeda stated that they are also thinking about proposing a new thing where the employee rates the supervisor; but the thinking is where to put the cap on--if you go all the way to the top (Manager).

In response to Mr. Goya's question of whether the employees do self-assessment, Mr. Ikeda replied they do not. The supervisor rates the employee and holds a one-on-one meeting with the employee to review the rating.

Mr. Konanui stated that while he was with the Police Department, they tried having the employees rate the employer; and it did not work. The supervisors were being criticized, and it created more animosity.

Mr. Wilkins spoke of his experience in a research laboratory in which they had set their goals for achievement. They could never get past the quality of the goals--determining in advance how high the goals should be. There is an overwhelming tendency to set goals low so that they may be achieved. He worried that unless goals are challenging, the whole process is meaningless.

Mr. Goya asked the Manager if every employee knows that the Department is a "for profit" business or operates like one.

The Manager stated that he thinks every employee knows that the Department is a non-profit organization, but he keeps insisting that it should be run like a business; and he thinks everyone knows his attitude about it. The money that the Department does make goes back into the system; that is the only difference.

C. **WATER BOARD GOVERNANCE POLICIES:**

A draft set of water board policies was given to Board members at the June 22, 2004, Water Board Meeting. This item was for review, discussion, and/or revisions.

Ms. Garson commented that she had marked a number of items that primarily have to do with where she thought the policy was infringing upon an existing rule. In reading notes from the Deputy Corporation Counsel who had sat in on the last couple of Board Meetings in her place, she noted Mr. Wilkins' question about the adoption of the policies and how the Board goes about doing that. Ms. Garson clarified that if the Board is adopting an internal document that has no affect on the public or public interests, it does not have to go through the whole rule making, public hearing process. Once the Board starts stepping into more of the Rules and affecting the public's interests, then it does have to through the rule making process and adopt it like a rule. With that in mind, any time that the policies seem to infringe upon things or affect things that she felt were either covered by or affected the Rules and Regulations, she marked them because she thinks they should come out of the policy. She felt this policy is meant more to be an internal document between the Department and the Board to get things straight. She asked if it was okay with the Board for her to communicate her concerns directly with R. W. Beck, Inc., have them noted and given back to the Board for discussion. She has not communicated any of her concerns with them yet.

Mr. Wilkins noted that he would rather have time to study these more personally and for a longer period of time; therefore, he would like to have a chance to see Ms. Garson's notes before she sends them.

Ms. Garson noted that what she will do is make the revisions and put a footnote as to her reasons and that they will be sent out by the next meeting. The Board Members cannot discuss them amongst themselves until the next meeting.

Mr. Wilkins stated that he would feel much more comfortable reading through guidelines to Board Members' potential actions and would feel uncomfortable reading about constraints on the Board because constraints never seem to quite fit the situation that the Board is examining. Situations vary and constraints tend to be read as absolutes.

Chairman Nakashima clarified that the Board does have certain restrictions it must adhere to.

Mr. Wilkins understood that, but suggested you could have strong guidelines.

Ms. Garson stated that if any of the Board Members wanted to propose a written change, they could submit it to the Manager for inclusion with the Agenda and the packet that comes out so other Board Members can take a look at those suggestions prior to the next meeting.

D. **SPECIAL ATTORNEY – FOR DISCUSSION AND APPROPRIATE ACTION:**

Discussion continued from the previous meeting. Corporation Counsel was to determine whether the contract for the Special Attorney included a provision for a contract time extension.

Ms. Garson stated that there is a contract extension provision in the Hawai'i Administrative Rules that allows for a 180-day extension or less. What would need to be done is the Chief Procurement Officer, who is Mr. Pavao, would need to do a written determination for the extension. The parties to the contract need to agree to the extension and to the amount of compensation. If the Board wishes to continue with the contract, it would need to vote on a term and a parameter so that a contract may be drafted. If it is to continue an existing duty that was given, that should be the parameter and it must be done within a period of time.

The Manager posed the question of whether or not the Board wishes to retain an attorney or to have attorneys procured only in situations necessary that go beyond the capabilities or the time that Ms. Garson can spend on issues.

Chairman Nakashima mentioned Mr. Tanaka's comment on that from an earlier meeting where he had asked the Special Attorney to do some research in the financial resources area.

Mr. Tanaka stated that as the Finance Committee was formed, Mr. Hee had volunteered to assist the Committee, which was welcomed. He would say from that standpoint, that at least the Board retain him for that assignment. In the future, he did not think it needs to be an attorney doing research into creative funding, etc. It may be a financial planner the Board may want to retain. He would say for the purpose of the Finance Committee, he would like to see Mr. Hee continue; and he recalled from the last meeting, at least for several months, to complete the task that was mentioned. Unless there is another resource that someone may want to address, that was his feeling.

The Manager mentioned earlier communications from the attorney for the Finance Department and also Ms. Garson on the opinion whether or not the Department has the authority to go out and invest separately from the County. He did not think a private attorney could override that opinion.

Mr. Tanaka stated that the other question was that if the Board has no jurisdiction in that area, then maybe there should be no Finance Committee.

The Manager stated that if the only purpose of the Finance Committee was related to investments, there are strict rules that have to be followed, then perhaps that is correct. However, if the Finance Committee was meant to explore other areas that can assist the Department, then that is fine.

Mr. Tanaka mentioned one of Ms. Scarr's ideas was finding other ways to assist the Department. There are several projects to do with limited revenues coming in that are already allocated to capital improvement projects. The question was if there were any other resources.

Ms. Garson reiterated the question if an attorney is required to perform this task or if someone else could do it. She reminded the Board that if anything comes up at any time where it would

like to hire Special Counsel, it has the authority to do so. As a practical matter, one of the ways to procure services is through the regular Professional Services Procurement where an advertisement goes in the newspaper for solicitation for resumes. A committee is formed to review the resumes and can choose who that counsel is going to be. However, the Board would need to know what it is going to have that person do.

Mr. Tanaka's first thought was to defer until Ms. Scarr is here because she initiated the Finance Committee. The second thing is the Board needs to look at what the purpose is for the Finance Committee; and if one of them is to look at creative ways to get monies or loans, is that something the Board still wants to pursue, given the revenues the Department already has, given the projects that are on the 5-year C.I.P. schedule, does the Board want to do any more or how aggressive it wants to be. He thinks the Department has, in its years of existence, probably exhausted all of the resources that could be available to the utility. The challenge is what other sources are out there and if we are "reinventing the wheel." If it is the decision of the Board that it is not satisfied with what is on the C.I.P., as presented by the Department, and wants to "kick it up a notch," then perhaps the Department/Board needs someone special to assist-- whether it be an attorney or a financial planner can be decided upon.

The Manager stated that the other consideration is how much the Department can put out in projects, as far as in the Engineering Division and contracts. It would not be wise to get more than what the Department can physically do.

Mr. Tanaka stated that perhaps a solution to ponder about is something that came up earlier in today's Agenda--and that is the private partnership with Waiaha LLC. Time spent on a project of that kind would be minimal, so that may be one solution.

The Manager mentioned some other partnership situations that he was planning to cover under his Manager's Report. He agreed with Mr. Tanaka that these are innovative ways to get projects done.

Chairman Nakashima asked if the Board wished to defer this matter, since there are so many questions.

Ms. Hons stated that she was a bit confused over this because, as she understood, Mr. Hee has no contract at this point.

Ms. Garson noted that it expired June 30, 2004. However, the Board could vote to extend the contract, depending on what the Board wanted Mr. Hee to do; and in addition or in lieu of that, the Board could also decide if it wants an attorney. Then the Department could start the procurement process. However, she would ask that the Board form a subcommittee to assist the Department with its selection. She questioned whether the Board would want to do that or just wait and see.

Mr. Wilkins commented that there is a great deal of benefit in having someone like Mr. Hee on board who has spent a number of years working with the Board and the Department and is familiar with the problems they are faced with. He would hate to go out in the open market and find someone not having those years of experience.

Ms. Garson reminded the Board that there are, however, certain procurement requirements.

The Manager added that if the Board continues with the contract, there is no specific issue right now to justify extending it. Ms. Garson takes care of pretty much everything for the Department. Also, as Ms. Garson had mentioned at one time, a retainer contract is no longer looked at as something advisable.

Ms. Garson stated that there is nothing preventing the Board from entering into another contract with whomever the Board selects through the proper process in the future. Also, if the Board wishes to have someone on retainer, it can do that. Her comment about the retainer had to do with the Bar Association, which had tried to do away with it a few years back; however, it has not passed. There is this feeling out there in the Bar about the wisdom of retainer agreements. However, it is still lawful, if the Board chooses to do so.

Mr. Wilkins felt that it is good to have a retainer so that the person is available when needed. It helps keep you a bit higher in the pecking order with an attorney.

The Deputy Manager added that he likes working with Corporation Counsel, and in situations where Ms. Garson needs to be absent, the Corporation Counsel's Office has several attorneys that assist the DWS and are very responsive.

Ms. Garson stated that another option is one, such as used by the Planning Department, where the Department and the Planning Commission each have their own attorney, assigned by the Office of the Corporation Counsel. This could also be done by this Board, if desired.

Mr. Tanaka made the suggestion, in light of today's discussion and the fact that the Department is pursuing creative financing solutions with private partnerships, that the Department not renew the contract with Mr. Hee. The Board has that option to come up with the selection process. He asked that the Board take the time to reevaluate the goal of the Finance Committee, and there needs to be a full Board to have that discussion, especially with Ms. Scarr, since she was the one who suggested it. Think about what the priorities are and what areas of creative financing the Board wants to pursue. The Board's plate is fairly full with the Strategic and Business plans and working with the "champions." When it has time, and if special assistance is needed, it can be done at a later time.

Discussion followed on whether or not a Motion needed to be made not to continue with the contract. It was decided that it was not. Ms. Garson stated that since it was already discussed today, if someone wanted something like this back on the Agenda at a future time, it could be put back on as exactly as they wanted.

Mr. Wilkins requested that the annual cost for engaging the Board's attorney be provided by the next meeting because he did not know how much it has cost. He could not honestly vote on something one way or the other without knowing the expenses. (The Manager made note of the request.)

E. **PROFESSIONAL SERVICES AGREEMENT:**

Professional Services Agreement contract for the following Department of Water Supply project is currently being processed. However, the project is not listed on the Department's current 5-year Capital Improvement Projects list.

- 1) Kahalu'u Shaft Water Quality Enhancement. Part I (consists of a feasibility study to assess treatment alternatives and costs)  
Consultant: Brown and Caldwell  
Fee: \$70,000.00 (estimate, subject to negotiation)

The Manager recommended that the Board award the consultant contract to Brown and Caldwell for an estimated fee of \$70,000.00, and that either the Chairman or Vice-Chairman be authorized to sign the documents, subject to approval of Corporation Counsel.

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

The Manager stated that this basically provides a Part 1 construction contract to look at the possibility of treatment at the shaft so the water will be less in chlorides and will give an idea of what needs to be done, how, and at what cost.

Mr. Wilkins asked if it would be more than treatment at the shaft head. There is also the question of sustainable yield and how it will vary with water quality. He hoped any contract would look at more than just water treatment. (The Manager replied in the affirmative.)

In response to what the timeframe would be to complete the project, Mr. Ahuna replied that it will be set eventually.

Mr. Wilkins strongly recommended due speed with this project.

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

F. **MONTHLY PROGRESS REPORT:**

Page 5 - Mohouli Street Extension (It was noted that the entry needs updating. Project is completed.)

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

Mr. Sumada reported that the Department has caught up in its billings.

RECESS: 11:37 a.m. to 11:45 a.m.

H. **REFERRAL FOR EXECUTIVE SESSION:**

The purpose of this Executive Session is to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities pursuant to H.R.S. 92-4 and 92-5(a)(4) regarding Harris Computer Systems.

ACTION: Mr. Tanaka moved that the Board enter into Executive Session for the reasons stated; seconded by Ms. Hons and carried unanimously by voice vote.

Executive Session began at 11:45 a.m. and ended at 12:00 p.m.

I. **MANAGER'S REPORT:**

1. Employee of the Quarter presentation - Mr. Richard Sumada was presented with the employee of the quarter award for first quarter of 2004. He was recognized for sustaining an outstanding and superior performance since joining the Department in 1997. Chairman Nakashima congratulated him on behalf of the Department and the Board for a job well done.
2. Kona Coastview/Wonderview Status - on July 12, 2004, a public hearing was held in Kona where the Council received input from the community. Based on that, the Hawai'i County Council made a favorable recommendation to go ahead with the Ordinance to create the Improvement District. The resolution to establish Improvement District Process was July 23, and the final reading will be on August 18. After that date, the Department can give the contractor Notice to Proceed. Ms. Garson added that the Ordinance is scheduled for August 4, 2004. Mr. Wilkins mentioned that he attended the public hearing the Manager spoke of, and he was very impressed with the DWS' performance and other County representatives in making a complete presentation to the residents.
3. USGS Drilling Program - Mr. Tribble still reports trouble with the rig and it is still in Kaneohe. The hole collapsed; it needs to be cemented and reamed again. He assured the Manager that the rig would be out of there in two weeks and should be mobilized in Hawaiian Ocean View within a month. The Manager's concern is that while the rig is on this island, it is costing the Department; but the rig is not productive. Mr. Tribble has stated he would try and get some Federal funds to help pay the costs.
4. Proposed Improvement District, Andrade Camp - the Manager stated that the Department is working on another Improvement District Process with Andrade Camp in Pepe'ekeo. Staff has met with the residents, and they express desire to go through the process. They are working toward the Rural Development Program like the model that was set up in Kona Coastview/Wonderview. That may be coming before the Board eventually. Estimated cost for the project is \$460,000.00.
5. Kona Water Quality Progress - the Board approved a Professional Services Agreement today for the Kahalu'u Shaft water quality enhancement. The Department is also working on a private/public partnership in the Kona area. The system being looked at will be approximately \$4.5 million and will bring water from Waiaha down to Hienaloli Road. Ms. Garson has been involved in the process, and it may be brought to the Board at a future date for some type of resolution. It is similar in concept to the Waiaha Water System Agenda item discussed earlier today.

J. **CHAIRMAN'S REPORT:**

Chairman Nakashima mentioned a letter which was sent to the State of Hawai'i, Department of Transportation (DOT), Highways Division, and asked if there was a reply.

The Deputy Manager reported that the Director of that Department was invited to attend one of the Water Board Meetings. However, they were going to send two representatives in his place. The intent was to have the Director there to address problems the Department encounters with DOT's permitting process and policies regarding waterlines within State Highway Rights-of-Ways. The Deputy Manager added, for further information, that Mr. Ahuna attended a meeting with the DOT, and they bring up issues similar to what the DWS has been experiencing. He felt that after attending a couple more of these meetings, the Department can get a better understanding of what is happening within their organization.

**ANNOUNCEMENTS:**

**Next Meeting:**

The next meeting of the Water Board will be August 24, 2004, in the Royal Kona Resort, Discovery Room; 75-5852 Ali'i Drive, Kailua-Kona, Hawai'i, as follows:

1. 9:30 a.m. - Public Hearing on the proposed amendment to the Rules and Regulations
2. 10:00 a.m. - Regular Water Board Meeting

**ADJOURNMENT**

**ACTION:** Mr. Tanaka moved for adjournment of the meeting; seconded by Mr. Wilkins and carried unanimously by voice vote. Meeting adjourned at 12:13 p.m.

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Secretary

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