

MINUTES

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

July 28, 2015

Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI

MEMBERS PRESENT:

Mr. Rick Robinson, Chairperson
Mr. Craig Takamine, Vice-Chairperson
Mr. Russell Arikawa
Mr. Bryant Balog
Mr. Leningrad Elarionoff
Ms. Susan Lee Loy

ABSENT:

Ms. Brenda Iokepa-Moses, Water Board Member
Ms. Kanoë Wilson, Water Board Member
Mr. Jay Uyeda, Water Board Member
Mr. Duane Kanuha, Director, Planning Department (ex-officio member)
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)

OTHERS PRESENT:

Ms. Amy Self, Deputy Corporation Counsel
Mr. Fred Camero, Beylik Drilling & Pump Service, Inc.
Mr. Jeff Zimpfer, National Park Service
Ms. Nancy Cook Lauer, West Hawai'i Today
Mr. Riley Smith, Lanihau Properties, LLC
Mr. David Greenwell
Mr. Neal Herbert
Mr. Ed Sniffen, Deputy Director, State Highways Division
Mr. Sterling Chow, State Highways Division
Mr. Steve Bartholomew, Goodfellow Brothers
Ms. Elyssa Correia, Corporation Counsel
Mr. Travis Kuwahara, Corporation Counsel

Department of Water Supply Staff

Mr. Keith Okamoto, Manager-Chief Engineer
Mr. Kurt Inaba, Engineering Division Head
Mr. Richard Sumada, Waterworks Controller
Mr. Daryl Ikeda, Chief of Operations
Ms. Kanani Aton, Public Information and Education Specialist
Mr. Kawika Uyehara, Engineering Division
Mr. Eric Takamoto, Operations Division
Ms. Judy Hayducsko, Operations Division

1) CALL TO ORDER – Chairperson Robinson called the meeting to order at 10:00 a.m.

2) STATEMENTS FROM THE PUBLIC

None.

3) APPROVAL OF MINUTES

The Chairperson entertained a Motion to approve the Minutes of the June 23, 2015, Water Board meeting.

ACTION: Mr. Elarionoff moved to approve; seconded by Mr. Arikawa; and carried unanimously by voice vote.

4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA

The Chairperson entertained a Motion to approve Supplemental Agenda Items 6(C), JOB NO. 2015-1025, WAIMEA WATER TREATMENT PLANT FLOCCULATION DRIVE REPAIR; AND 8(A), JOB NO. 2015-1021, KE'EI D DEEPWELL INCOMING SWITCHGEAR MAINTENANCE.

ACTION: Mr. Arikawa moved to approve; seconded by Mr. Takamine, and carried unanimously by voice vote.

5) SOUTH HILO:

A. **PAUKA'A WATERLINE RELOCATION PROJECT:**

This project has been delayed until a Use and Occupancy Agreement can be reached with the State Department of Transportation (DOT), Rights-of-Way Branch.

The Manager-Chief Engineer noted that DWS was making this presentation at the request of Mr. Neil Herbert, who asked that this matter be placed on this month's Agenda. DWS staff wanted to explain the situation to the Board, including the challenges that DWS has faced in this regard, he said.

Chairperson Robinson said that the DOT representatives at the meeting today could jump in at any time.

Mr. Ed Sniffen, Deputy Director of the State Highways Division, said that he and his colleague were not prepared to answer specific questions on this project, but said that the matter would be looked into.

Mr. Inaba set up an easel showing the project area, which is in Pauka'a, just north of Honoli'i Bridge in Hilo. He explained that before the project was initiated, the waterline used to run through a cul-de-sac and up a driveway on Mr. Herbert's property. There was a leak about 13 feet deep in the backyard, too deep to excavate, Mr. Inaba said. DWS ended up providing a temporary waterline (between the end of the cul-de-sac and Kahoa Place). He noted that there is an existing waterline on Kahoa Place, a very short road that ties into the State highway, but there is no waterline that crosses the highway. Therefore, DWS is doing improvements to provide that section with water. The proposal is to run a waterline down an existing right-of-way, to replace a substandard 3-inch line, a 2 ¼-inch line, as well as a 1 ¼-inch line, Mr. Inaba said. DWS plans to replace the old waterline that is on the mauka side of the highway, as well as cross the highway, and tie into the mauka portion of that line in Kahoa Place. That was the extent of the Pauka'a project. The reason that DWS has not moved forward with the project was that there were issues with the Use and Occupancy Agreement with the State.

Chairperson Robinson asked what a Use and Occupancy Agreement is.

Mr. Inaba said that it is basically an agreement between the utility, i.e., DWS, and the State, that specifies the responsibilities of the parties going forward, once DWS installs its waterline there.

The Manager-Chief Engineer said that a Use and Occupancy Agreement would allow DWS to use and occupy a portion of the State right-of-way, and certain conditions apply.

Chairperson Robinson asked if it were true that Mr. Herbert has been waiting for years for this project to get done.

Mr. Inaba said it was about four or five years.

The Manager-Chief Engineer said it was seven years. He explained that DWS had thought that it could proceed, once it appeared that DWS had come up with a template for Use and Occupancy Agreements in the case of the Kona Ocean View Improvement District in 2013. A portion of the work in that subdivision was in the State right-of-way, and a Use and Occupancy Agreement was reached. That instance gave DWS hope for proceeding with the Pauka‘a project, the Manager-Chief Engineer said. However, additional challenges occurred with what DWS thought was a Use and Occupancy Agreement that the Department could use, when the Attorney-General sent it back with language that DWS could not live with. The Manager-Chief Engineer noted that HRS 264-33 accords DWS certain rights which are protected as a utility within the State right-of-way. DWS found some of its agreements coming back, with DWS being asked to waive its rights; the Department was not ready to accept that. That is what has caused the delay on the Pauka‘a project; that is the basic background as to why the project has not been done yet, he said.

Ms. Lee Loy asked for confirmation that DWS would be taking the line off of private property, and running it through public property, i.e., either a County or State road.

Mr. Inaba showed the portion which is the County right-of-way, leading to the State highway.

Ms. Lee Loy asked if the work would upgrade the three different-sized lines.

Mr. Inaba said it would upgrade the 2 ¼-inch line and the 1 ¼-inch line. The line will cross the highway where there is no line right now, and tie into the existing 6-inch line on Kahoa Place, on the makai side.

Ms. Lee Loy asked for confirmation that DWS has some assurances under Hawai‘i Revised Statutes, that allow DWS to do certain things.

The Manager-Chief Engineer confirmed this.

Ms. Lee Loy asked for confirmation that the Use and Occupancy Agreement came back with language that either diluted or stepped away from Statute.

Mr. Inaba said that the new language specifically said that DWS would be responsible for any future relocation, whereas HRS 264-33 says that the agency responsible for the project would be responsible for the relocation of public utilities.

Ms. Lee Loy said that DWS obviously wants to follow HRS Statute.

Mr. Inaba confirmed this.

Ms. Lee Loy asked what the fix for this problem would be. She noted that these people had waited too long for water.

The Manager-Chief Engineer said it was opportune that Mr. Sniffen, the Deputy Director of State Highways Division was on hand today. He noted that Mr. Sniffen is very familiar with HRS 264-

33, and recent discussions with Mr. Sniffen had given the Manager-Chief Engineer hope that DWS can now overcome this challenge.

Mr. Sniffen confirmed that he and the Manager-Chief Engineer had discussed this issue previously, and the Manager-Chief Engineer had expressed his concern over the wording in the Use and Occupancy Agreement. He noted that in the past, State Highways had tried to protect itself from any relocations that were necessary. In general, the thinking at State Highways back in the day was that when somebody was in the right-of-way and if Highways had to relocate them based on Highways' need for widening, etc., then the responsibility should be on the utility. Mr. Sniffen said that after speaking with the Manager-Chief Engineer, he touched base with the DOT's Rights-of-Way Branch, but he said that he had not prepared himself to talk about this particular matter today. He said that he could not speak to the Use and Occupancy Agreement specifically. However, he said that he was not in favor of foregoing any State Statute that protects anybody in Highways' right-of-way. Mr. Sniffen said he would make sure to look into this issue, and see where matters stood right now. He said that he wanted to address the matter holistically, to assure that everything that Highways does is consistent. As the Manager-Chief Engineer indicated, it is not consistent. Highways is trying to address that. Noting that Mr. Herbert has been waiting for seven years on this project, Mr. Sniffen said that Highways will get on it, and he promised to report back to the Manager-Chief Engineer.

Mr. Elarionoff asked when he would report back on it.

The Manager-Chief Engineer said that DWS will put the onus on themselves to follow up and keep track of it. He said that DWS was not asking for anything one-sided in its favor; the Department just wanted to maintain its protection under current Statute.

Ms. Lee Loy noted that Mr. Sniffen was slated to appear later in the Agenda, but asked that his Item be moved up to keep everything in context.

MOTION: Ms. Lee Loy moved to move Item 7(A), QUEEN KA'AHUMANU HIGHWAY WIDENING PROJECT—PHASE 2: MEMORANDUM OF UNDERSTANDING (MOU) next on the Agenda; seconded by Mr. Arikawa, and carried unanimously by voice vote.

7) NORTH KONA:

A. QUEEN KA'AHUMANU HIGHWAY WIDENING PROJECT—PHASE 2: MEMORANDUM OF UNDERSTANDING (MOU):

(This Item was deferred from the June 23, 2015, Board meeting.)

Mr. Sniffen said that DOT is very excited that this project is finally going to move forward. DOT has submitted its plans and specifications to the State Historic Preservation Division (SHPD) for their review of consistency with National Environmental Protection Act (NEPA) documents that DOT has already submitted. That consistency review should be done within the next 30 days, and the Notice to Proceed on the project is expected to be issued on September 1. Mr. Sniffen said that Mr. Steve Bartholomew, representing the contractor, Goodfellow Brothers, Inc., was also on hand to answer any technical questions regarding the project. Before the expected September 1 start date, there will be a public information meeting in late August to inform the public about any impacts that construction may have. Turning to the subject of **additional costs**, Mr. Sniffen said that Highways has been working both internally and with the contractor to see how best to address a lot of these costs. Mr. Sniffen said that Highways had made sure that the fiscal people at DOT had looked at the funds that DWS had deposited with DOT over the last four years, and the fiscal people came up with a calculation of DWS's share of State interest. The

calculations of the interest only covered up to the end of July, but it will be calculated to go up to the end of August, he said. That last month should mean another \$2,000.00 or so in interest for DWS. The interest, which would be attributed to DWS's share, would be around \$50,000.00.

Mr. Sniffen said that DOT has been working out the cost increases with the contractor. (*At this point, he distributed to the Board a Revised Summary of Additional Costs.*) He noted that the \$605,996.00 at the bottom of the sheet was the number attributable to increases in costs for the water system portion of the work itself. Mr. Sniffen said that all of the numbers on the sheet were tentative, with negotiations ongoing with the contractor. Item 3 (gasket replacement), Item 4 (to test/certify valves) and Item 5 (to replace brass fittings with lead/free fittings) and Item 6 (to replace valves or valve components), are necessary items. These were based on materials that were purchased, but either had to be re-certified, re-tested, or replaced. Mr. Sniffen said that after talking with staff, he feels that DOT is responsible for these costs because DOT made the decision to purchase the materials at the time – only to have the project put on hold. Therefore, DOT is assuming those costs. That means that the total costs would come to about \$350,000.00, and DOT is applying the State interest credit of \$50,000.00 to DWS.

Item 1 on the sheet is labor and material cost escalation, and DOT is currently in preliminary talks with Goodfellow on that. The figure for that item is \$244,240.00, and it is just an estimate that the two sides have come up with as a starting point. This is based on the Engineering News Records (ENR) Indices (i.e., a Construction Cost Index widely used in the construction industry), gauging the delta between 2011 and 2015. That number could move up or down, but the figure is pretty close, Mr. Sniffen said.

Mr. Steve Bartholomew of Goodfellow Brothers said that the figure is as close as can reasonably be found. The parties have approached the matter using various ways, but the number always comes out about the same, he said.

Mr. Sniffen said that the discussion of additional costs will continue, and the Manager-Chief Engineer and his staff will be sitting in on discussions with the contractor.

Item 2 on the additional costs list is construction cost changes due to the South segment re-design. This item, for \$15,000.00, is for a siphon that the contractor had to add in the area that was re-designed. The contractor had to narrow the median in that southern portion of the highway, and needed to add a siphon to dive under a sewer line in the area. This amount is for the materials necessary for that re-design portion, Mr. Sniffen said. Summing up, Mr. Sniffen said that DWS's portion of the additional costs is \$259,240.00 minus the \$50,000.00 interest credit, which comes out to \$209,240.00.

The Manager-Chief Engineer said that when DWS initially had this discussion with DOT and the contractor last week, the parties were looking at a figure of \$400-something-thousand. It appears that the Highways gentlemen were able to bring that number down, and the Manager-Chief Engineer said he now feels hopeful, because \$200-something-thousand is a lot better than \$400-something-thousand. He noted that in 2010, DWS executed with the State DOT an MOU, under which DWS gave the State a check for \$3.444 million. This includes \$3.28 million for the project, plus a contingency amount of approximately \$164,000.00. That contingency is not enough to cover the approximately \$200,000.00 spoken of today. DWS also had to come up with the money for the re-design. The Manager-Chief Engineer acknowledged the State's cooperative efforts to bring the initially-proposed re-design amount from close to \$200,000.00, to around \$54,000.00. That \$164,000.00 in contingency was reduced by the \$54,000.00, so now there is only about \$110,000.00 left in contingency. For this reason, if DWS were to agree to the

\$209,240.00 in additional costs proposed today, DWS would need to come to the Board to approve those funds, he said.

Chairperson Robinson asked if that would mean amending the contract that the Board approved back in 2010.

The Manager-Chief Engineer said that Corporation Counsel would need to advise as to what the proper mechanism would be. He noted that there was a Tri-Party Agreement, involving the Board, the DOT, and Goodfellow Brothers; the State Attorney-General had made a recommendation regarding an amendment, back when action on the agreement was last taken by the Board, he said.

Ms. Lee Loy asked about Item 1 regarding labor and material cost escalation. She asked for the breakdown between labor escalation and material cost escalation.

Mr. Bartholomew apologized that he did not have that information at his fingertips.

The Manager-Chief Engineer asked Mr. Bartholomew to explain how he arrived at that figure.

Mr. Bartholomew first explained that he is a project manager for Goodfellow Brothers, and has been responsible for the entire design phase of this project. This is a design-build project, and Goodfellow has been working with its consultant for a number of years. It has been a little over four years since the time that Goodfellow thought they could have started work, but archaeology issues intervened. Over that period of standing down, there have obviously been cost increases for labor, equipment, and materials, he said. These cost increases affect both Goodfellow and its sub-contractors, and Goodfellow has been struggling for some time to get a handle on those cost increases. He asserted that Goodfellow is only looking to stay whole, and nothing more than that. It is particularly complicated because the project is in the midst of a re-design, in order to avoid all of the archaeological sites, in compliance with NEPA documentation, Mr. Bartholomew said. Goodfellow only has its estimates of what they think the work will cost, and its estimates were based before the design was even done. Therefore, the cost estimates are a difficult issue to address, and Goodfellow does not really have any clear understanding of how accurate its cost estimates are, he said. He acknowledged that contractors take this risk all of the time. The only way to be 100 percent accurate in calculating the additional costs would be laborious and would have to wait until the work was completed, and all of the costs were finally known. Goodfellow is trying to define a range that is reasonable, using a number of different approaches based on its budget. As a design-builder, Goodfellow accepted a larger risk than a contractor who is bidding off of a defined set of plans.

Mr. Bartholomew said that, with one exception, the changes between what the contractor thought they would be building back in 2011 and what the contractor will now be building, are minor enough to fall within the range of what Goodfellow felt they could reasonably accept. That one exception is the siphon, mentioned earlier, that Goodfellow needs to build for a cost of about \$15,000.00. This amount is not dramatic in the scheme of things, but it is significant enough that Goodfellow wants it to be a placeholder until the final design is done and the full cost impact is known. Mr. Bartholomew said that the above explanation addresses the scope changes that have been identified; it does not address the cost increases due to the delay, etc. He said that Goodfellow does not want to approach its sub-contractors and vendors to ask for new quotes; the contractor does not want to offer an open checkbook. Therefore, Goodfellow worked to establish an upper limit that would be reasonable. The contractor took the contract item price, and compared it with the ENR Construction Cost Index between May 2011 (when work should have started), and September 2015. According to that index, construction costs have increased 11.33 percent in that time period. That percentage of increase seemed to be a reasonable starting point

in estimating the cost increase. Goodfellow took the bid item price, and subtracted the money that the contractor had been paid on that bid item to date, noting that in 2010 and 2011, Goodfellow, in anticipation of starting work, purchased more than \$1 million worth of materials for the water systems in this project. The cost escalation, obviously, did not apply to those already-purchased items, Mr. Bartholomew said. Therefore, the contractor took the difference, and applied that 11.33 percent to arrive at \$244,240.00, which is inclusive of all of the indirect costs: increases in labor, materials and equipment; General Excise Tax (GET) increases, bond increases, etc. It is inclusive of everything, including any project indirect costs and margins. That is the number of the upper limit, he concluded. Goodfellow feels that with this upper limit established, the contractor is in a better position to make sure to keep the cost increases that it negotiates with its vendors and sub-contractors within these bounds, he said. Furthermore, Goodfellow is prepared to substantially accept all of the risk of not being able to keep within those bounds, he said.

Ms. Lee Loy, noting that DWS has had a lot of pipe and other assets on the ground all these years, asked the DWS staff about the general obligation bond for this project that DWS has been making payments on.

The Manager-Chief Engineer asked the controller for confirmation that DWS has paid more than \$600,000.00 in interest on the \$3.4 million bond.

Mr. Sumada confirmed this.

Ms. Lee Loy asked Ms. Self what the next step is. She noted that Mr. Sniffen had indicated greater flexibility, but that not everything was firm yet.

Mr. Sniffen confirmed this.

Regarding the next step, Ms. Self said that she was not clear where matters stood on amending the Tri-Party Agreement; noting that this was a question that has come up with the Department of Environmental Management (DEM), which is also involved in the project.

Mr. Sniffen said that work on amending the Tri-Party Agreement has not started yet, and DWS should be involved in the discussion.

Ms. Self said that she would also want to be involved in the discussion, and DEM would want to be involved, too.

Mr. Sniffen confirmed this.

Chairperson Robinson asked if that amended Agreement would come before the Board for approval.

MOTION: Ms. Lee Loy said that she would like to make a Motion to put this Item back on the Agenda for next month, so that DOT will have the opportunity to refine the Tri-Party Agreement as well as refine the additional cost numbers. She said she did not want to interfere with the September 1 project start date; the community has waited far too long. Ms. Lee Loy said this was a hammer to get Mr. Sniffen to come back next month with some firm information. Ms. Lee Loy further asked the DWS staff to take a look at refining the MOU. That was her Motion, she said.

Mr. Takamine seconded the Motion.

Chairperson Robinson recapped the Motion saying that this Item would be put back onto next month's Agenda, with the intention of having the Tri-Party Agreement amended for the Board to consider, with all of the background materials on the cost increases.

Mr. Sterling Chow of State Highways, Hawai'i District, asked to speak. He wanted to clarify that there is an MOU between the State and DWS, to add the waterline to the highway widening project. The Tri-Party Agreement was drawn up because of the *re-design* of the South segment of the project. He noted that DWS took on the responsibility of re-designing that portion, rather than Goodfellow Brothers, and that Tri-Party Agreement has been agreed to by DWS and the contractor. It is being signed by the DOT Director right now. Any amendment, to add more monies, would be an amendment to the MOU, not the Tri-Party Agreement. Mr. Chow said he just wanted to clear that up.

Chairperson Robinson said okay, it is an amendment to the MOU.

Ms. Lee Loy said that would be easier and quicker.

The Manager-Chief Engineer said that the MOU is just a two-party agreement between DWS and the State, and does not include Goodfellow Brothers.

Mr. Takamine noted that Ms. Lee Loy was asking for the final price by the next meeting, but Mr. Bartholomew had said he would not be able to get a final price until sometime during construction. From the foregoing discussion, it sounded like it would not be possible to get a final price by the next meeting, Mr. Takamine said.

Mr. Bartholomew said he did not think it would be possible to get anything more reliable than what Goodfellow has already given the Board. The contractor has used various methods to calculate the cost increase, and gets the same number. This indicates that the approach using the construction cost index is a reasonable method, he said. Goodfellow is proposing that the number be the \$244,240.00, and Goodfellow accepts the risks of it coming out higher or lower than that, Mr. Bartholomew said.

Chairperson Robinson said that the number should be the \$209,240.00 listed on the sheet.

Mr. Bartholomew said yes, that \$209,240.00 is the overall total.

Mr. Sniffen clarified that the \$244,240.00 is just the labor and material cost escalation.

Mr. Arikawa asked if federal funds for this project were still forthcoming.

Mr. Sniffen said those federal funds were locked up all along. He said that this project is a poster child of what DOT will not do in the future. He said that in the past, the culture of departments of transportation across the nation, as well as Federal Highways, was to **obligate** funds, get a project ready and submit it to Federal Highways, so that they could sign off on the project and protect the money. Every year, DOT in Hawai'i had \$160 million in federal funds, and the goal was to ensure that every dollar was protected; that was the intent in the past. Right now, Congress is deliberating on the re-funding of the Federal Highways program, and that program will go insolvent at the end of July if Congress does not do something about it, Mr. Sniffen said. About three years ago, Congress started asking where this Federal Highways money was going to come from, and they started looking into all of the bank accounts of the states. Congress discovered that the states had piles of money stashed in the highway accounts, so the culture from that time shifted from obligation, to *expenditure*. The Queen Ka'ahumanu Widening Project was a case in point from the old culture. The funds were obligated, and DOT tried to push the project forward as fast as possible. The project did not go as fast as planned, and DOT took the risk, Mr. Sniffen

said. Under the current culture, DOT would not have put this project out until all the ducks were in a row. Mr. Sniffen said that the answer to Mr. Arikawa's question is that no federal funding was lost. The problem was that the \$90 million in federal funds for this project just sat in the bank, and DOT could not use that money for anything else. That money will only be put to use when the project starts. In the future, DOT will not put that kind of money on the line, Mr. Sniffen said.

Chairperson Robinson called for the vote on the Motion, which he said was for the amendment of the MOU at the next meeting.

ACTION: Motion carried unanimously by voice vote.

Mr. Elarionoff asked that the project be referred to by its formal name, Queen Ka'ahumanu, not Queen K. He asked the Board if they remembered that he made that request at a previous meeting.

Chairperson Robinson confirmed this.

Mr. Elarionoff said that amid the current situation on Mauna Kea (i.e., the controversy regarding the Thirty-Meter Telescope project), it is a touchy subject for Native Hawaiians to have the highway referred to as the Queen K.

Chairperson Robinson confirmed that it would be referred to as Queen Ka'ahumanu. He then asked Mr. Sniffen for confirmation that the State Historic Preservation Division had approved the plans for the highway.

Mr. Sniffen said that the State Historic Preservation Division is currently doing its consistency review of the NEPA documents, etc. Once that review is done, DOT can go in for the grading permit and then start construction.

Chairperson Robinson said that as a cyclist who rides his bicycle up and down the highway three times a week, he will be happy to see the project done.

Mr. Sniffen asked if the Chairperson had attended the recent meeting that DOT held to talk about the new bike paths on the highway.

Chairperson Robinson said that he had not attended, but his cycling friends expressed happiness about the planned bike paths.

6) SOUTH KOHALA:

A. **JOB NO. 2015-1026, PARKER #2 DEEPWELL REPAIR:**

This project generally consists of the replacement of the existing deepwell submersible motor, pump, power cable, column pipe and all appurtenant equipment, such as strapping, chlorination of the well and pumping assembly, in accordance with the plans and specifications.

Bids for this project were opened on July 16, 2015, at 1:30 p.m., and the following are the bid results:

Bidder	Bid Amount
Beylik Drilling and Pump Service, Inc.	\$638,000.00
Derrick's Well Drilling and Pump Services, LLC	\$488,000.00

Project Costs:

1) Low Bidder (Derrick's Well Drilling and Pump Services, LLC)	\$ 488,000.00
2) Contingencies (10%)	<u>\$ 48,800.00</u>
Total Cost:	<u>\$ 536,800.00</u>

Funding for this project will be from DWS's CIP Budget under Deepwell Pump Replacement. The contractor will have 240 calendar days to complete this project. The Engineering estimate for this project was \$354,000.00.

The Manager-Chief Engineer recommended that the Board award the contract for JOB NO. 2015-1026, PARKER #2 DEEPWELL REPAIR, to the lowest responsible bidder, Derrick's Well Drilling and Pump Services, LLC, for their bid amount of \$488,000.00, plus \$48,800.00 for contingencies, for a total contract amount of **\$536,800.00**. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality by Corporation Counsel.

ACTION: Mr. Elarionoff moved to approve; seconded by Mr. Balog, and carried unanimously by voice vote.

The Manager-Chief Engineer said that after this Agenda was prepared, DWS was made aware that the apparent low bidder had submitted a product that was not approved. Accordingly, DWS rejected the apparent low bid, and declared it non-responsive. This left one bidder remaining. Under HAR 3-1-22-35 and HAR 3-1-22-96, Sub-chapter 11, DWS proposes to cancel this solicitation in the best interests of the public, he said. DWS will take a look at the scope of the original contract, and probably reduce the scope; the Department will then re-advertise for bids, he said.

Chairperson Robinson asked if the Board should go ahead and vote on the Motion, or amend the Motion.

The Secretary said that the Board had already voted, and therefore the Board needs a new Motion.

Ms. Self said the Board needs a new Motion; the Board had already voted on the previous Motion.

Ms. Lee Loy said that if she was hearing correctly, the new Recommendation from staff is to cancel Job No. 2015-1026, pursuant to HAR 3-1-22-96, and re-advertise the bid, with a modified scope of services.

The Manager-Chief Engineer confirmed this; it will be a cancellation of solicitation for this Job. DWS will create a new job, with a different scope, and re-advertise for bids.

Ms. Lee Loy asked Ms. Self whether, because the Board had not awarded, the secondary bidder's appeal would be moot.

Ms. Self said that DWS canceled the solicitation, so the bids can just be re-done.

MOTION: Ms. Lee Loy moved to cancel the bid, and re-bid the project; seconded by Mr. Arikawa.

Mr. Elarionoff asked the Manager-Chief Engineer how matters had gotten this far before DWS found out that the product was not approved.

The Manager-Chief Engineer said that was a good question. He asked Messrs. Ikeda and Takamoto how DWS was notified.

Mr. Takamoto said that notification to DWS came from the secondary bidder, who told the Department that the apparent low bidder had submitted equipment that was not approved.

Ms. Lee Loy asked what DWS is doing to ensure that a bidder is not catching these errors.

The Manager-Chief Engineer explained that items are specified out, and if anything deviates from those specifications (specs), the potential bidders are supposed to submit a substitution request, which indicates that the substituted item is good enough to accommodate DWS's needs. In the case of this bid, DWS was not aware that the product that was bid on was *not* the one that DWS had specified out – until it was revealed to DWS. Subsequently, DWS confirmed with the apparent low bidder that the product was not approved via a substitution request, etc. Normally, a bidder would have to let DWS know that the bidder was putting something in the bids that was not approved. In many cases, DWS would not find out such a discrepancy until things got much farther down the line. It is better that it was caught *now*, rather than later, he added.

Ms. Lee Loy said she agreed, but she wanted to know if there were protocols for future contracts so that this does not happen.

The Manager-Chief Engineer said that he is sitting in on pre-bid meetings and pre-construction meetings for every deepwell repair, to make sure that problems can be addressed ahead of the bid.

Mr. Takamine said that he appreciated that DWS was trying to do these things, but he felt that it was the contractor's responsibility for providing the right materials, following the specs, etc. It is really up to the contractor.

Ms. Lee Loy said she felt there needed to be language in contracts that the information provided by the contractor is true and accurate, and that the information matches the scope of services and the specifications.

The Manager-Chief Engineer said that there is such language in DWS's contracts. He agreed with Mr. Takamine, but also felt that DWS needs to be proactive by reminding potential bidders that things need to be done properly.

Mr. Elarionoff said he disagreed with Mr. Takamine and the Manager-Chief Engineer; he felt that it is DWS's responsibility to double-check.

Chairperson Robinson said that he agreed.

The Manager-Chief Engineer said that the Department would share the responsibility.

ACTION: Motion carried unanimously by voice vote.

B. JOB NO. 2014-1010, LĀLĀMILO A DEEPWELL REPAIR – STATUS UPDATE:

The contractor, Beylik Drilling and Pump Service, Inc., was granted a time extension at the June Board meeting for the above-mentioned project, whose revised completion date was set at July 14.

The Manager-Chief Engineer said the Board had asked the contractor to provide an update at this meeting.

Mr. Takamoto reported that the insulation work was completed on July 21, and the contractor is now waiting for the water quality sampling results to come back, before the well is returned to service.

Mr. Arikawa asked how long that would be.

Mr. Takamoto said that sampling will be conducted tomorrow, and results will be provided on Friday.

Chairperson Robinson asked if the Board was going to be consistent with the action that it took last month to extend the contract.

Mr. Takamoto said that the Board had extended the contract to July 14, so the contractor is looking at five working days' worth of liquidated damages. DWS will now move forward to assess the liquidated damages as it does the final payment.

C. **JOB NO. 2015-1025, WAIMEA WATER TREATMENT PLANT FLOCCULATION DRIVE REPAIR:**

This project generally consists of the repair of four (4) flocculation drive systems, which include the gearboxes, mechanical seals, drive shafts, bearings and appurtenances; and one (1) spare drive, in accordance with the plans and specifications.

Bids for this project were opened on July 23, 2015, at 2:30 p.m., and the following are the bid results:

Bidder	Bid Amount
Beylik Drilling and Pump Service, Inc.	\$499,520.00

Project Costs:

1) Low Bidder (Beylik Drilling and Pump Service, Inc.)	\$ 499,520.00
2) Contingencies (9.98%)	\$ 49,880.00
Total Cost:	<u>\$ 549,400.00</u>

Funding for this project will be from DWS's CIP Budget under Facility Charges. The contractor will have 180 calendar days to complete this project. The Engineering estimate for this project was \$450,000.00.

The Manager-Chief Engineer recommended that the Board award the contract for JOB NO. 2015-1025, WAIMEA WATER TREATMENT PLANT FLOCCULATION DRIVE REPAIR, to the lowest responsible bidder, Beylik Drilling and Pump Service, Inc., for their bid amount of \$499,520.00, plus \$49,880.00 for contingencies, for a total contract amount of **\$549,400.00**. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality by Corporation Counsel.

MOTION: Ms. Lee Loy moved to approve; seconded by Mr. Takamine.

The Manager-Chief Engineer said that per HAR 3-1-22-35, DWS is allowed to award to a sole responsive bidder, if the price is fair and reasonable. The staff has determined that this price was fair and reasonable, because it came in close enough to the Engineering Estimate of \$450,000.00.

Mr. Arikawa asked what a flocculation drive is.

Mr. Takamoto explained that it is used for water processing. Technicians inject a chemical to remove the large particles and debris in surface water; the flocculation drive is a mixing system, designed to properly stir the chemical into the water to create the proper solution.

The Manager-Chief Engineer said that at the Waimea Treatment Plant, the flocculation basin is where the chemical coagulates the particles in the water into larger particles. Those larger particles then settle out of the water. The flocculation drive is part of that process.

Mr. Arikawa asked if four flocculation drives cost this much.

The Manager-Chief Engineer confirmed this.

Chairperson Robinson asked what the benchmark was for determining what is fair and reasonable; he noted that the original estimate was for \$450,000.00, while the bid came in at \$499,000.00.

The Manager-Chief Engineer said there was nothing set in the books, but if the bid comes within 10 percent of the Engineering Estimate, it would be considered fair and reasonable. DWS does not expect the estimate to be spot-on.

ACTION: Motion carried unanimously by voice vote.

7) NORTH KONA:

A. QUEEN KA‘AHUMANU HIGHWAY WIDENING PROJECT—PHASE 2:
MEMORANDUM OF UNDERSTANDING (MOU):

(This Item was handled earlier in the meeting.)

B. PALANI WELL NO. 1 – SECOND SUPPLEMENTAL WELL DEVELOPMENT
AGREEMENT:

The developers, Lanihau Properties, LLC, West Hawaii Business Park, LLC, and Palani Ranch Company, Inc., have submitted a Second Supplemental Well Development Agreement, due to a recent discovery. The owners have recently been made aware that the well’s casing is in a condition that may impact operations of the well in the future. Therefore, this Supplemental Agreement stipulates future maintenance and/or repair protocols to monitor and assess the condition of the casing.

The agreement also stipulates mitigation measures in the event that the casing deteriorates to the point that it affects operations of the well. The agreement obligates the owners to cover additional expenses for the repair and maintenance protocols as well as provide security should the mitigation measures need to be implemented.

The Manager-Chief Engineer recommended that the Board approve this Second Supplemental Well Development Agreement and that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality by Corporation Counsel.

MOTION: Mr. Arikawa moved to approve; seconded by Mr. Balog.

The Manager-Chief Engineer said the basis of this Agreement is that the developers came forward to acknowledge that some conditions down-hole may pose problems in the future. There is language in the Agreement that stipulates when repairs need to be done, what repairs need to be done, as well as mitigation measures to be followed, depending on what happens down-hole. He said he wanted to commend the developers, for being above-board in acknowledging the situation down-hole. The Agreement says that in the worst-case scenario, whereby DWS would have to drill an entirely new well, the estimated cost would be \$1.6 million. The developers were putting up property as security; taking into account fluctuations in real estate prices, the parties agreed

that 50 percent was reasonable. The developers provided parcels that were assessed at \$2.4 million by the County Real Property Tax Division.

Mr. Inaba indicated the two parcels on a map, along with the Palani Well and Tank.

Mr. Elarionoff informed the Board that he and his wife had sold property to Lanihau Properties President Riley Smith. He made it clear that Mr. Smith owes Mr. Elarionoff money; Mr. Elarionoff does not owe Mr. Smith anything. Mr. Elarionoff made this disclosure to dispel any allegation of conflict of interest; it was up to the Chairperson to rule on whether a recusal was necessary. Turning to the Agreement itself, Mr. Elarionoff noted that it says on Page 3, Item C: "The pump bowl assembly could not be removed, and was left in place." However, later in the Agreement, it says that the pump bowls, etc., will be inspected. He asked how the pump bowls could be inspected if the pump bowl is stuck in the water.

The Manager-Chief Engineer explained that the pump bowls being referred to became stuck at the bottom during the initial drilling of the well, during the exploratory phase. The contractor at that time lost the pump down the hole, and that pump has remained in the hole. The contractor tried unsuccessfully to retrieve the pump; the situation down-hole ensued as a result. When the contractor tried to pull the pump out of the hole, it got lodged against the louver-like perforated casing, and caused a slight kink. That is the pump that is still in the hole. Meanwhile, the pump that is referred to in the section labeled "Inspection for External Damage" is the operational pump that will be installed. If that pump does fail and needs repairs, DWS will pull it out. DWS wants to make sure that the kink in the perforated casing did not make contact with the pump bowl assembly, the Manager-Chief Engineer said.

Mr. Elarionoff asked for confirmation that the inspection did not involve the pump bowl and other things left on the bottom.

The Manager-Chief Engineer confirmed this.

Mr. Elarionoff asked about Item 4, Mitigation Measures, on Page 4 of the Agreement, where there is language saying: "in the reasonable discretion of DWS," and later there is language regarding Lanihau Properties "in its discretion." He asked what that meant.

The Manager-Chief Engineer said he thought that might be a legal question for Corporation Counsel.

Chairperson Robinson said no, it is just a question as to why Lanihau Properties gets to make the decision as to what the mitigation measures would be, as compared to DWS.

Ms. Self said yes, that is correct. She said that the discretion of Lanihau Properties is to implement any one of the three mitigation measures listed.

The Manager-Chief Engineer asked Mr. Smith of Lanihau Properties to comment.

Mr. Smith noted that there were three different mitigation measures in the Agreement. In the event of a slight deterioration in the well casing, Lanihau Properties would probably look at the first mitigation measure. If it got worse, Lanihau Properties would go to the second mitigation measure, he said. The third mitigation measure is to drill a new well. The intent was to afford Lanihau Properties the flexibility to skip to the third mitigation measure if needed, Mr. Smith said. The alternative would be to try one measure and spend \$400,000.00, and failing that, to spend \$500,000.00 on the second mitigation measure, and failing that, to resort to the third mitigation measure and spend \$1.6 million, he said. Lanihau Properties has additional lands nearby, and is in discussions with DWS regarding development of an additional well. Mr. Smith

noted that his company and Palani Ranch have been in business for 165 years, and are perpetual organizations that plan to be a part of the community forever. Therefore, his company intends to work with its neighbors and stakeholders to do whatever is fair to all concerned.

Mr. Elarionoff said he had one more question, regarding Page 5 of the Agreement. He cited the passage that says: "Lanihau Properties' financial obligation for this Mitigation Measure shall expire and cease at the end of a two-year warranty for the new pump and motor installed in the well." He turned to Page 6, where there was a passage saying: "subject, however, to the contractor's standard one-year warranty." He asked why the contractor's standard warranty was one year, while the other one was for two years; he asked what the difference was.

The Manager-Chief Engineer said that Mitigation Measure No. 1 is to install a smaller-diameter pump, which is something that DWS normally does not prefer; DWS prefers to have its standard-size pump and motor. Smaller-diameter motors have been slightly more problematic than the motors that DWS normally specifies; this is why DWS asked for an extended warranty, for two years, in the event that DWS goes to Mitigation Measure No. 1, he said. If DWS goes with Mitigation Measure No. 3, which is to drill an entirely new hole, that hole would be big enough to accommodate a standard-size pump and motor. In that case, DWS can live with a one-year warranty.

Ms. Lee Loy asked for confirmation that by sending the video down the hole, DWS now has a baseline, and this Agreement addresses that baseline because it acknowledges what is down in the hole.

Mr. Smith confirmed this.

Ms. Lee Loy asked for confirmation that if something happens, DWS has these three mitigation measures to remedy it. She said that the worst-case scenario is to drill a new well.

Mr. Smith confirmed this.

Ms. Lee Loy, noting that Lanihau Properties was offering real property as security, asked whether the properties were located in elevations that would be conducive to developing a new well.

Mr. Inaba said the properties are strictly for value.

Mr. Smith said that the properties are at elevations that could support a well, but hydraulically speaking, they are probably too high for pumping water and bringing water down the hill.

Ms. Lee Loy asked how large the well site was.

Mr. Inaba said it was about an acre.

Ms. Lee Loy asked how large the two parcels were.

Mr. Smith said they were 500 acres and 300 acres. He said that his company's intent is to make whole on all of its obligations. Because Palani Ranch has 10,000 acres in North Kona, the company has the capability of providing the land as security. Its value is based on the County Real Property Tax Office's assessment; his company did not hire an appraiser. The issue with the well was discovered only on May 15, 2015, and his company wanted to get this source online as soon as possible so that DWS can use it right away. By not hiring an appraiser, his company avoided the long, drawn-out RFP process, etc., Mr. Smith said. Instead, his company worked with DWS to figure out how to reach a quick solution. Mr. Smith noted that neither of the two parcels have any encumbrances on them; his company had worked closely with Ms. Self to

ensure that the titles were clear. He noted that there is another parcel just makai of the two parcels, which would be better suited as a well site. However, his company has a conflict with an adjacent landowner, so there is a cloud on that title, and his company could not make that parcel available.

Ms. Lee Loy asked Ms. Self about the assurance of the title.

Ms. Self said these properties are just to secure; if Lanihau Properties were to default and the property were to go up for foreclosure sale, DWS would get first crack at the property. DWS has a secured interest in the property.

Chairperson Robinson asked if this property were perfected with a lien, or a mortgage for performance.

Mr. Smith said that this Agreement gets recorded, so any search on the property will show the Agreement.

Chairperson Robinson asked if, then, this were a mortgage for performance.

Mr. Smith said it was not a mortgage; it is a recorded document that puts a cloud on the title; his company cannot sell the property, or do anything else on it while that encumbrance is on the title. That is one of the reasons why there is language in the Agreement that affords Lanihau Properties with some options after two years. His company may want to do something with the property, and would take it off the table and possibly just drill another well. At that point, Lanihau Properties' obligations would cease, and the company could rescind the use of those lands as security. There is also a provision that allows his company to substitute other real estate, in the event there is such a need, Mr. Smith said.

Ms. Self noted that the value that this property is based on is the County Real Property Tax Office assessment – not the fair market value, which would be higher than the tax office assessed value.

Mr. Elarionoff, citing the Agreement, said that the property is worth much more.

Mr. Inaba said that DWS just wanted to make sure that it was equitable for the Department.

Mr. Elarionoff said it is very fair.

Mr. Arikawa asked if the pump, etc., stuck at the bottom could shift and cause blockage.

Mr. Smith, turning to Exhibit 1 in the Agreement, noted that the well surface elevation as drawn is about 1,700 feet. There are 1,600 feet of solid casing, and about 140 feet of perforated casing. The abandoned pump and motor are at the very bottom. When the new pump and motor get installed, they will be about 60 feet above the abandoned pump and motor, he said. The perforated casing at 140 feet will act as a sort of screen to keep all of the rocks and other particulates out of the water stream. Therefore, the abandoned pump and motor will not be an issue, he said.

Mr. Inaba said that the well was tested subsequent to the pump being dropped in the hole; the actual testing of the well capacity was done in the first phase, with that abandoned pump down there.

The Manager-Chief Engineer confirmed that, and said that before DWS accepts a final project, it pumps the well for that capacity again.

Mr. Takamine said that he appreciated that Mr. Smith offered the historical perspective on this project; it helps the Board understand the issues that all of these different well repair projects face. He also appreciated Lanihau Properties' good-faith effort to offer these mitigation measures, to get this well back online.

Mr. Elarionoff asked for assurance that the abandoned pump, etc., will not emit any contaminants as time passes.

Mr. Smith said the answer is no. He explained that the pump, which was stuck under the side of the casing, was the same type of pump that would be used to draw water from the well. Therefore the abandoned pump and motor do not pose any risk.

Chairperson Robinson noted that this well development agreement has specific dollar amounts listed in it, which obligates the property through the recordation of the instrument. He said he always has a concern whenever such agreements state specific dollar amounts. He asked Ms. Self if DWS is protected against movements in the costs in the future.

Ms. Self said yes. She added that she had thoroughly looked at the title reports of the properties, and the titles are clear.

Chairperson Robinson asked if this involved Land Court or the regular system.

Ms. Self said it was the regular system.

ACTION: Motion carried unanimously by voice vote.

C. **JOB NO. 2012-985, HUALĀLAI DEEPWELL REPAIR – CHANGE ORDER:**

The contractor, Beylik Drilling and Pump Service, Inc., is requesting a contract change order and contract time extension for the Hualālai Deepwell Repair. The contract change order is to cover costs associated with shortages on estimates provided as part of Change Order No. 4 for push/pull costs, motor repair work and the full string testing of the pump and motor assembly. It also covers discrepancies with payments for invoices No. 3 through 4, in which the incorrect percentage of 15% for overhead allowance was applied and how bond and insurance fees were handled. Total project costs shall not exceed \$718,959.93.

Original Contract Amount:	\$79,223.00
Original Contingency amount:	7,922.00
1 st Additional Contingency & 123 day extension request:	94,500.00 (approved 10/22/13)
2 nd Additional Contingency & 273 day extension request:	53,611.72 (approved 6/24/14)
3 rd Additional Contingency request (emergency procurement)	23,581.06
4 th Additional Contingency & 274 day extension request:	413,680.15 (approved 4/28/15)
5 th Additional Contingency & 61 day extension request:	\$46,442.00

The contractor, Beylik Drilling and Pump Service, Inc., is also requesting a contract time extension of 92 calendar days. The Department issued a stop work notice to the contractor upon notification that the estimated costs for the motor repair work and string testing were inadequate for completion. This action has delayed the receipt of the motor for reinstallation because the job at both the motor repair shop and testing facility got shifted back to the end of the queue. These factors are beyond the control of the contractor and the original scope of the repair.

The Manager-Chief Engineer recommended that the Board approve an increase in contingency of \$46,442.00 to Beylik Drilling and Pump Service, Inc., for a total project cost of \$718,959.93, and approve a contract time extension of 92 calendar days for JOB NO. 2012-985, HUALĀLAI

DEEPWELL REPAIR. If approved, the contract completion date will be revised from July 31, 2015, to October 31, 2015.

MOTION: Ms. Lee Loy moved to approve; seconded by Mr. Arikawa.

The Manager-Chief Engineer said that DWS had thought they had gotten a decent estimate from the contractor, but then the Department discovered an additional \$6,000.00 for some work. DWS staff needed to get approval from the Board for this amount, and told the contractor to stop work pending approval by the Board. The Manager-Chief Engineer asked Mr. Fred Camero of Beylik Drilling and Pump Service, Inc., to explain why some of the cost estimates had changed, and to explain the request for a time extension of 92 calendar days.

Mr. Camero said that his estimate for Change Order No. 4 was simply an estimate, based on the fact that his company was going to process this change order as a *force account work*. Therefore, it was immaterial whether it was over-estimated or under-estimated. This is because as a force account work, Beylik's performance and materials would need to be accounted for at the tail end, via receipts and labor hours, to determine exactly how much Beylik gets paid for that change order. Mr. Camero said he now knows that any additional funds would need to be approved by the Board; he said he would have been a bit more diligent in making sure the numbers were more accurate. There was a change in scope for additional work, which Mr. Camero included in Change Order No. 5: additional teardown and inspection after the motor manufacturer does the full string test. That cost comes to an additional \$3,009.00. Mr. Camero said that he underestimated the initial cost of the full string test by \$6,600.00; the motor manufacturer does not actually do the full string test himself – he must go out to a third party to have the full string test done. The motor manufacturer had underestimated the cost of the third party's string test, and Mr. Camero just passed that cost along to DWS. Regarding the item labeled "Updating Change Orders 3 and 4," which called for an additional \$10,733.00, Mr. Camero misapplied the actual profit numbers. He said that he included a 15 percent profit and overhead percentage, instead of the correct percentage, 20 percent. Mr. Camero also did not include the 2.5 percent bond fee. Therefore, Mr. Camero was just trying to recapture those costs that he had missed. He said the last item, regarding the actual labor to install the pump and demobilize once the pump and motor arrive on site, was his fault. That item called for an additional \$26,100.00. Mr. Camero, in summary, said the total additional funding being requested was \$46,442.00. He said that barring any unforeseen change order or change in scope, this should be the last change order for this project.

Mr. Balog said he thought that when someone bids on a project, the bidder is supposed to be responsible for the amount he bids. Citing Mr. Camero's underestimation of the string test cost, he said that Beylik should be responsible, regardless of whether the cost changes.

Mr. Camero said he would agree with that if this were negotiated work; in that case, he would be responsible for any cost changes. However, because this was a force account work, those numbers were estimates at the time.

Mr. Takamine said that although projects sometimes inadvertently go sideways, he agreed with Mr. Balog. He said this was not acceptable; regardless of whether it were a force account or not, these are numbers that the Board had been provided with. These were numbers that the Board based its judgment on, and it was unacceptable to come back afterwards for another \$10,000.00 for underestimating overhead and profit, and for missing the bond fee, etc. Mr. Takamine said that Beylik will be scrutinized for things like this, and the Board needs to protect the public's interest. He said he was not happy with this change order request.

Mr. Elarionoff asked the Manager-Chief Engineer why the staff recommended that the Board approve this change order.

The Manager-Chief Engineer said this was by no means a garden-variety project. The reason why the Department recommended approval was because it was all justifiable expenses.

Mr. Elarionoff asked what he meant by “justifiable.”

The Manager-Chief Engineer began to explain how DWS handles a force account.

Mr. Elarionoff asked him to first explain what a force account is.

The Manager-Chief Engineer said that there are different ways to accommodate changes in scope. The parties can do an agreed-upon lump sum, and then the contractor takes the risk. For example, if the lump sum agreed upon is \$10,000.00, the contractor would benefit if the work comes in below \$10,000.00. Conversely, if the work goes over \$10,000.00, the contractor eats the amount that goes over. In the case of a force account, the contractor must account for material, equipment, labor, overhead and profit; DWS would agree to pay the contractor, subject to getting receipts and time sheets, etc. Under a force account, the contractor must prove that they were working, that they used the equipment and the materials, etc. In this particular contract, that was basically what was determined to be utilized for this additional work, the Manager-Chief Engineer said. This is why these change order numbers are legitimate expenses, under a force account work.

Mr. Elarionoff said that the one thing that he did not like in Mr. Camero’s letter was the line saying: “Beylik would recommence with the work only upon approval of the additional funds.” He said this sounded like a hostage situation; it sounded as if the game would be over if the Board did not approve the additional funds.

Mr. Camero said that was obviously not his intent, and he apologized if it sounded like that to Mr. Elarionoff. He said that he was issued a Stop Work directive by DWS, and the reason for the Stop Work directive was because he and the Department had to go before the Board to get these additional funds approved. Once the additional funds are approved, Beylik can go ahead and recommence work, Mr. Camero said. Without the go-ahead from DWS, Beylik cannot proceed, he added.

Mr. Elarionoff said it is “cannot,” then, instead of “only if.”

Mr. Camero confirmed this, and apologized.

Mr. Balog asked for clarification on what a force account means. He asked whether it meant that if the contractor has a receipt, regardless of what it is for, that DWS will pay the bill.

The Manager-Chief Engineer said no, not necessarily. DWS will review that receipt to make sure that it is legitimate and reasonable; the contractor cannot just present a receipt from a store for things like drinking cups. The receipts must be for items for the project, he said. It is a burdensome process, but it means accounting for every item that is supposed to be used for the project.

Ms. Lee Loy said she is not happy. She asked the Manager-Chief Engineer whether the \$6,600.00 line item was for underestimating the full string test.

The Manager-Chief Engineer confirmed this.

Ms. Lee Loy asked what work the original contract was for.

The Manager-Chief Engineer said his understanding was that the original contract involved just extracting from the well the unit that was not operational.

Mr. Camero said that under the original contract, the pump and motor had been removed by a previous contractor, supposedly under warranty. However, Mr. Camero's understanding was that it was not under warranty, so the Department went back out to bid. The scope at that time was very limited: the plan was to re-use the existing pump and to have the motor repaired, and then just go back down the well. That is why the contract number was very small, compared to where matters stand now amid these many change orders, Mr. Camero said. He noted that since that original contract, DWS has upgraded the motor, bought new pipe, upgraded the threads on the pipe, upgraded the discharge head, and purchased a new high-voltage junction box. The actual repair itself constituted only around 10 percent of the cost, compared to the material that was purchased, Mr. Camero said.

Ms. Lee Loy asked whether the original contract included the demobilization, which she noted is included in the latest change order request. She said that she would have assumed that the original contract required the repair of the pump, the installation, etc., and she would have assumed that the original contract included demobilization as well. Ms. Lee Loy said she just wanted to make sure that some of these services were not included already.

Mr. Camero said that was a valid question; his company was not double-dipping on some of these costs. He said that he made sure that these costs were valid with the Department.

Ms. Lee Loy asked the Manager-Chief Engineer what would happen if the Board rejected the change order request; she asked if it would mean that DWS would lack a source.

The Manager-Chief Engineer said his understanding was that DWS is only obligated to pay up to the last approved change order, which would be Change Order No. 4. That is what DWS had contracted with Beylik, he said. If the Board votes against the latest change order request, DWS will only have what it has now, and DWS will pay Beylik for the work that the contractor has done so far. The work will have stopped, the contract will be finalized, and then DWS will probably have to go out to bid to finish the remainder of the work, he said.

Mr. Balog asked if it were possible to amend the change order request.

The Manager-Chief Engineer said the Board could do that; he did not know if that would be acceptable to the contractor.

Ms. Lee Loy said that there was a lot of stuff that was not acceptable, and she did not like it. She said that the Board and staff work very hard to ensure that DWS's contracts, scope of services, etc. She said that she wanted to send a message that the Board needs to be very smart about how it uses the money; this is a public trust. The public wants the Board to do a good job.

Ms. Lee Loy said that as pushback, she wanted to amend this change order request, and remove the underestimated costs. These underestimated costs are not DWS's fault, and Ms. Lee Loy said she did not think that DWS should have to pay for it. She said that whoever looked at this force account should have been more mindful. She said that DWS cannot keep taking things like this, and the Board needs to push back. Ms. Lee Loy said that she wanted to see the underestimated costs for the full string tests be taken out.

Mr. Takamine asked if it were within the Board's rights to amend the change order request within the force account process.

Ms. Self, speaking off mike, confirmed this.

Mr. Elarionoff said that he understood what Ms. Lee Loy was saying, but the only thing he was really unhappy about was the underestimation of the profit. He thought that should be separated out; Mr. Camero made a mistake and he will lose out on that percentage that he underestimated. Mr. Elarionoff asked what a string test is.

Mr. Camero explained that when a submersible pump and motor are involved, the factory test uses the job motor to test the hydraulics of the pump. With a string test, the actual job motor is used for this test, he said. He confirmed that Beylik itself does not perform the string test.

Mr. Elarionoff said he had a hard time understanding how the cost of the string test could have been underestimated.

Mr. Arikawa said that he wanted to eliminate Bullets 2, 3 and 4 from the change order request, with only Bullet 1 remaining, i.e., the shipping cost. He told Mr. Camero that he understood where he was coming from, and he understood what the Manager-Chief Engineer said. DWS needs to finish the account, pay Beylik off for the work they have done, and go for re-bids for the remaining part of the job. This, Mr. Arikawa, did not make sense to him unless this would finish the job.

Chairperson Robinson asked Mr. Camero asked if this would finish the job.

Mr. Arikawa said that if DWS goes out and re-bids for the remaining part of the job, the Department will be at Square One. DWS might as well have Beylik finish the job and have it over with, he said.

MOTION: Ms. Lee Loy moved that the Board go into Executive Session to discuss with Corporation Counsel any liabilities that the Board might have related to this project; Mr. Takamine seconded.

Ms. Self asked if the Board were tabling the original Motion.

Chairperson Robinson said that the Board was holding the original Motion in abeyance, pending its consultation with Ms. Self.

ACTION: Motion to go into Executive Session carried unanimously by voice vote.

(Executive Session began at 11:42 a.m., and ended at 12:17 p.m.)

Once back in regular session, Chairperson Robinson noted that the original Motion was to approve Beylik's change order request for the Hualālai Deepwell repair project.

AMENDED MOTION: Ms. Lee Loy moved to amend the original Motion, to provide a change order amount of a maximum of \$20,000.00; seconded by Mr. Balog.

Chairperson Robinson recapped, saying that the Amended Motion provides for a contract amount not to exceed \$20,000.00, instead of the recommended \$46,442.00, and that the time extension of 95 calendar days (sic) would remain. He asked if 95 days was correct.

Mr. Camero and Ms. Lee Loy said that it was actually **92** calendar days.

Ms. Lee Loy said that she had a hard time with this matter; she was not comfortable with paying for errors and mistakes. She said that while everybody makes mistakes, the Board and DWS strive for excellence in reviewing its contracts, bids, etc., and they expect the same when engaging in a contract. It is important that this pump gets back online; people need water.

Ms. Lee Loy said that she was comfortable with the revised change order amount, to finish the work and get back to other matters.

ACTION: Motion carried unanimously by voice vote.

Chairperson Robinson called for returning to the original Motion as Amended, which is to provide the \$20,000.00 and the 95 (sic) calendar days.

ACTION: Motion as Amended carried unanimously by voice vote.

Chairperson Robinson asked Mr. Camero if he was okay with doing the work and finishing up the project.

Mr. Camero said he was okay with finishing the work and completing the project.

8) SOUTH KONA:

A. **JOB NO. 2015-1021, KE‘EI D DEEPWELL INCOMING SWITCHGEAR MAINTENANCE:**

Bids for this project were to be opened at 2:00 p.m. on July 23, 2015. However, there were no bids received for this contract. Staff will obtain quotations in the best interest of the Department.

Chairperson Robinson asked what happens now that no bids were received.

The Manager-Chief Engineer said that DWS will explore other procurement methods to have the work completed; typically, DWS will go out and solicit quotations.

9) KA‘U:

A. **JOB NO. 2015-1024, HAWAIIAN OCEAN VIEW ESTATES DEEPWELL REPAIR:**

Bids for this project were to be opened at 1:30 p.m., on July 23, 2015.

The Manager-Chief Engineer noted that this Item was not included in the Supplemental Agenda. Due to some questions regarding the bid, DWS decided to postpone the bid until August 13, 2015, and it will appear on the August Board Agenda as a routine Agenda Item.

Chairperson Robinson asked what is happening in Ocean View in the meantime; he asked whether the residents were able to get any water.

The Manager-Chief Engineer said the well is still operational, but it is showing signs of potential failure. Therefore, DWS proactively decided to put this project out to bid for replacement or repair, instead of waiting until the well went down. If the well were to go down, DWS would be stuck having to do an emergency procurement.

Chairperson Robinson noted that when DWS first did the well, there was a problem with variations in the electrical supply.

The Manager-Chief Engineer said yes, those electrical conditions still persist in the area. This well was put in as a larger-capacity well, and DWS had hoped it would be more robust and therefore able to accommodate the power fluctuations. Nevertheless, the well is showing signs of potential failure.

Mr. Elarionoff asked if the signs of potential failure lay in the motor itself.

Mr. Takamoto, the project engineer, said that when the well was last repaired and tested, the speed of the pump was 100 gallons per minute (GPM), but its current levels have dropped to around 84 GPM. This is far below its normal range, i.e., below the range where DWS would normally run this type of equipment, he said. The Department is concerned that the well is showing signs of reduced capacity, and failure may be imminent, Mr. Takamoto said.

Chairperson Robinson asked if the problem lay in the electrical supply or the motor.

Mr. Takamoto said the problem involves the pump, not necessarily the motor. He said the impellers in the pump assembly are wearing down, and therefore the well is losing capacity.

Mr. Elarionoff asked why it is wearing down; he asked if it was the electrical grid or due to inferior materials.

Mr. Takamoto said that it was because of the speed at which DWS is running the pump; it is not in the typical range that the pump was designed for. That pump should normally be running at around 300 GPM, but it is only running at 100 GPM, which is far below its normal operating range.

Mr. Elarionoff said he did not understand why the impellers should be affected if the pump operates at a lower-than-normal range.

Mr. Takamoto said it is because the pump is operating in a range that it was not designed for; the impellers are wearing out more rapidly than they would if the equipment was run as designed.

Chairperson Robinson said it was like driving a Ferrari in a 35-mph zone.

Mr. Balog asked if DWS had plans for a second, back-up well in the area.

The Manager-Chief Engineer said there no concrete plans yet. DWS has been having informal discussions with the Commission on Water Resource Management (CWRM) staff. However, the water quality with this particular well is not ideal; there is warm water, and a lot of dissolved solids. These issues indicate that this is not an ideal aquifer to be pumping potable water from. Before investing in another well, DWS wants to make sure to address those concerns, he said.

Mr. Balog said that DWS should at least explore some other options, lest the well go down and DWS ends up hauling water.

The Manager-Chief Engineer said that when the well went down in the past, it was a burden for the community. However, DWS has resources available in Wai'ōhinu and Ho'okena. He noted that the Ocean View well is just a spigot and standpipe facility; it is not a water distribution water system.

Mr. Elarionoff asked why the Department does not simply run the pump at a higher speed, if the problem with the impellers is that the pump is running at low speed.

Mr. Inaba explained that there is a limit on how much DWS can pump out of that well. The Department found during a test-pumping of the previous replacement, the chloride levels started to elevate when the GPM rose to 120. As a result, DWS is limited on the rate at which it pumps water, in order to minimize the impact on the aquifer.

Mr. Elarionoff asked for confirmation that DWS is forced to run the pump at a lower rate, which causes the pump to break down sooner.

Mr. Inaba confirmed this, and said that DWS needs to be responsible with the well.

The Manager-Chief Engineer said that when the well was originally built, the spec motor had a capacity of 100 GPM. That motor failed, and DWS thought that the possible cause was the fluctuating power. As a result, DWS decided to put in a higher-capacity motor, in hopes of accommodating fluctuations in power, while still remaining operational, he said. DWS put in a larger-capacity motor with a variable speed drive, which would allow operation at different GPMs. The Department tried to operate it at higher GPMs, until the water quality issue forced DWS to go back down to 100 GPMs. The Manager-Chief Engineer said that the thought was that at least DWS got a more robust motor that would withstand the electrical fluctuations, but the impeller situation arose.

Chairperson Robinson asked whether the issue involving the water haulers in Ocean View had been resolved.

The Manager-Chief Engineer said that the Legislative Auditor had closed the books on that.

10) **MISCELLANEOUS:**

A. **DEDICATIONS:**

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

1. GRANT OF EASEMENT AND BILL OF SALE

Project Name: Palani Ranch Well No. 1
Grantor/Seller: Palani Ranch Company, Inc.
Tax Map Key: (3)7-4-002:008 (Portion)
No. of Lots: n/a Zoning: n/a
Facilities Charge: n/a
Final Inspection Date: 7/15/2015
Water System Cost: \$5,058,903.02

2. DEED

Project Name: Palani Ranch Well No. 1 (Same as above)
Grantor/Seller: Palani Ranch Company, Inc.
Tax Map Key: (3)7-4-002:021

The Manager-Chief Engineer recommended that the Water Board accepts these documents subject to the approval of the Corporation Counsel, and that either the Chairperson or the Vice-Chairperson be authorized to sign the document.

Mr. Inaba noted that the Deed is for the parcel where the well site is located, and the Grant of Easement is for the transmission facility.

ACTION: Mr. Arikawa moved to approve; seconded by Ms. Lee Loy, and carried unanimously by voice vote.

Chairperson Robinson noted that with the change in ownership of these facilities, DWS's balance sheet will show an increase of about \$5 million.

B. **POWER COST CHARGE:**

Departmental power costs have declined as a result of a decline in Hawai'i Electric Light Company (HELCO) billings for electricity for the Department's wells and pumps. The

Department proposes reducing the Power Cost Charge from \$2.32 to \$1.85 per thousand gallons to reflect this decline. In order to accept public testimony on this change, a Public Hearing should be scheduled before the new Power Cost Charge is reduced.

The Manager-Chief Engineer recommended that the Board approve holding a Public Hearing on August 25, 2015, at 9:45 a.m., to receive testimony on reducing the Power Cost Charge from \$2.32 to **\$1.85**, effective September 1, 2015.

MOTION: Mr. Balog moved to approve; seconded by Mr. Takamine.

Mr. Elarionoff said that he could not understand why the effective date needed to be September 1; he asked why it could not be October 1 instead. He suggested that this date would provide more room to balance out or stabilize, and it would give the Board a chance to see if the right decision was made.

The Manager-Chief Engineer explained that this was a topic for the Board to discuss. He noted that the staff had pondered whether the way the power cost formula is calculated should be changed. The way it is calculated now is based on the duration of time between now and the last Power Cost adjustment. In the current case, there was just a short interval between now and the previous Power Cost adjustment, and that is why there was a dramatic decrease. If the Power Cost goes up two months later, the Board has the opportunity to bring it back up again, the Manager-Chief Engineer said. He noted that the Board in the past had decided to do it that way. Prior to that decision, DWS only had the ability to modify the Power Cost Charge on an annual basis. He said that one thought that came to mind was to change the formula; instead of just looking at the period between the last Power Cost adjustment and now, DWS could look at a 12-month moving average. He said that the intent with the current formula was to accommodate changes in energy costs more efficiently, rather than having to wait a year.

Mr. Elarionoff asked whether the current formula requires more paperwork.

The Manager-Chief Engineer confirmed this.

Mr. Elarionoff asked whether that was more efficient or more cumbersome.

The Manager-Chief Engineer said that it was more cumbersome for staff, but more efficient for the customers.

Mr. Elarionoff asked whether it justified the cost effect.

The Manager-Chief Engineer said that as a water customer, he would say yes. That was the intent behind why the current Power Cost formula was established. However, if the Board has concerns, DWS can revise the calculation.

Mr. Elarionoff said he did not know about revising the calculation. The effective date is what he was concerned about, he said. He said the effective date should be postponed at least another month to get some idea of stabilization.

The Manager-Chief Engineer said the intent was to put the Power Cost adjustment into effect as soon as possible, to reflect current prices. To wait a month, the Power Cost might change, and that \$1.85 may no longer be the number, he said.

Mr. Elarionoff asked for clarification that DWS can adjust the Power Cost every two months.

The Manager-Chief Engineer confirmed this. He said the Board did not have to adjust it every two months; prior to the most recent Power Cost adjustment, DWS held the price for a couple of years.

AMENDED MOTION: Mr. Elarionoff moved to amend the original Motion, to change the effective date to October 1, 2015, instead of September 1, 2015.

Chairperson Robinson asked if there were a second.

Mr. Elarionoff said that was okay; it did not hurt his feelings.

Chairperson Robinson said the Amended Motion died for lack of a second, so the Board would go back to the original Motion, to have the effective date be September 1, 2015, with the Public Hearing to be held on August 25, 2015.

ACTION: Original Motion carried unanimously by voice vote.

Chairperson Robinson asked the Manager-Chief Engineer how long the next Item would take; he was thinking of lunch and finishing the meeting.

The Manager-Chief Engineer said he could be as quick as possible, but there were quite a few more Items to go before the meeting was over.

ACTION: Ms. Lee Loy moved to recess for lunch, to resume at 1:00 p.m.; seconded by Mr. Balog, and carried unanimously by voice vote.

(The meeting recessed for lunch at 12:38 p.m., and resumed at 1:15 p.m.)

C. **PROFESSIONAL SERVICES AGREEMENT - WATER USE AND DEVELOPMENT PLAN UPDATE – PHASE 2:**

Due to unforeseen additional scope of work required by the Commission on Water Resource Management (CWRM) as an approving agency, the Water Use and Development Plan (WUDP) Update currently contracted with Fukunaga & Associates, Inc., will be revised to complete the Keauhou Aquifer System Area (ASYA).

The proposed Phase 2 of the WUDP Update will include source and infrastructure development strategies, as well as traditional and cultural practices (including non-consumptive) uses of water for the Keauhou ASYA, and the entire update of the Waimea ASYA.

The *original* scope approved by the Board in May 2014 was to update the WUDP for two aquifer sector areas, Hualālai and West Mauna Kea (which includes the Keauhou ASYA and Waimea ASYA, respectively). This was because of new, updated information that was not available at the time that the WUDP was being done.

During this latest update, there have been numerous changes in the scope of work which were requested and subsequently approved by CWRM, in order to address concerns raised amid the petition to designate the Keauhou ASYA.

This project will require a consultant which would be procured through professional services procedures. Based on the updated scope of work expectations, it is anticipated that this contract will be approximately \$100,000.00, and will be funded from the Department's Capital Improvements Budget (CIP). It is anticipated that this update will take approximately one year to complete.

The Manager-Chief Engineer recommended that the Board approve the Water Use and Development Plan – Phase 2 as a project to be added to the Department’s Fiscal Year 2016 CIP Budget.

MOTION: Mr. Arikawa moved to approve; seconded by Mr. Balog.

The Manager-Chief Engineer said that the staff did a good job of summarizing the status of the Water Use and Development Plan (WUDP), and why it is necessary to come back before the Board to ask for additional funding. When DWS originally scoped out the project, there was new information available, which the staff thought warranted an update of the WUDP. This had to be vetted through CWRM approval of the scope, etc., he said. Based upon discussion with CWRM staff and various CWRM meetings, CWRM has requested that DWS do a number of other things; these are sensible things that simply were not included in the original scope. DWS is trying to provide what CWRM needs to make the decision that it needs to make; this update will also be a good working document for DWS and the County to use for water use and development going forward, the Manager-Chief Engineer said. DWS is asking for an additional \$100,000.00 to secure a consultant to do this update. The Department will go through the normal Professional Services procurement.

Ms. Lee Loy asked for confirmation that this update arose out of the conversation related to the designation of the aquifer. She asked if the measuring of the Traditional and Cultural practices, i.e., the non-consumptive uses, were part of CWRM’s Preliminary Order.

The Manager-Chief Engineer said that the Traditional and Cultural practices was part of what DWS discussed with CWRM staff, who asked DWS to incorporate some component of that into this WUDP update. DWS told CWRM that this was doable, although it was not clear what kind of details that DWS would be able to glean. However, DWS said it would do what it could. Both sides appear to be okay with that, he said.

Ms. Lee Loy said she was trying to understand a “measurable” of Traditional and Cultural practices, and asked whether it was instead a cumulative view of all of the different cultural practices throughout the region, which includes the Keauhou aquifer system and the Waimea aquifer system.

The Manager-Chief Engineer said that this Phase 2 update will focus on Keauhou. As far as assessing the Traditional and Cultural component of this WUDP, DWS will try to do some outreach by talking to people. DWS has already combed through a couple hundred environmental documents to see what could be gathered from those. Unsurprisingly, those documents are really only site-specific; therefore, any impacts will be evaluated here, where one’s project is – not down at the shoreline. DWS went through that exercise, regardless, he said. DWS will be trying to see what it can glean, but there is no definitive conclusion that the Department expects out of this effort, the Manager-Chief Engineer said.

Chairperson Robinson asked whether the letter to CWRM from the Mayor’s Office was related to the WUDP update.

The Manager-Chief Engineer said that it was somewhat independent of this effort. He believed that letter was a response to the Preliminary Order of December 29, 2014, which basically asks that the County and the National Park engage in discussions to avoid designation, if possible. There has been some back-and-forth movement, with NPS having presented some things, and the County having presented, with this last letter, an alternative path to designation. Regarding the WUDP update, DWS will incorporate any findings regarding the Traditional and Cultural component into this document.

ACTION: Motion carried unanimously by voice vote.

D. UPDATE RE: NATIONAL PARKS SERVICE'S PETITION TO DESIGNATE KEAUHOU AQUIFER AS A GROUND WATER MANAGEMENT AREA:

The Manager-Chief Engineer said there will be a CWRM meeting on August 17, 2015, in Kona at the West Hawai'i Civic Center. There is no Agenda posted yet, but the Items might include the designation and possibly the other petition to designate a smaller area. DWS expects to present its WUDP and possible Phase 2 scope, he said. However, nothing is firmed up on the Agenda yet. He noted that CWRM meetings normally start at 9:30 a.m.

Ms. Lee Loy asked whether a decision on the designation would be made on August 17; she asked if this meeting will just involve more additional information.

The Manager-Chief Engineer said he honestly did not know. A decision on the designation will have to be listed on the Agenda as an Action Item, he said.

Ms. Lee Loy asked if the WUDP, that has already been completed and submitted to CWRM, will be discussed at a CWRM meeting on August 11 or 13.

The Manager-Chief Engineer said that CWRM would be meeting on August 11, 2015, noting that CWRM cancelled its July meeting. However, the WUDP is not going to be on that Agenda. CWRM is going to wait until the Kona meeting for that Item; there are likely to be comments from CWRM staff on the WUDP. DWS staff have been working with CWRM staff to resolve whatever comments that CWRM staff had on DWS's draft Phase I, he said.

E. EXECUTIVE SESSION RE: NATIONAL PARKS SERVICE'S PETITION TO DESIGNATE KEAUHOU AQUIFER AS A GROUND WATER MANAGEMENT AREA:

No Executive Session was held.

F. DISCUSSION OF AMENDING RULES AND REGULATIONS REGARDING PLACING RESPONSIBILITY WITH PROPERTY OWNERS FOR TENANTS' DELINQUENT BILLS:

(This Item was deferred from the June 23, 2015, Board meeting.)

Ms. Lee Loy said that she understood that the draft of the Amended Rules was going to be circulated among the staff for comment; she was not sure if it had made it around or not.

The Manager-Chief Engineer apologized and said that staff may have misunderstood; nothing was circulated aside from what had previously been drafted.

Ms. Lee Loy explained to the new Board members that she, Chairperson Robinson and then-Deputy Corporation Counsel Kathy Garson, had done some modifications and refinement of the language of the Rule related to establishing water service. The move to amend the Rules arose amid delinquent customers and the question of how to collect unpaid water and sewer bills. A year ago, Ms. Lee Loy attempted to go through the Legislature with proposed legislation to enable DWS to put a lien on properties for unpaid water bills. That initiative failed, and now the Board is trying to resurrect the idea of addressing a Rule amendment. Ms. Lee Loy said that she would get to the Board the last draft of what Ms. Garson did. That is what she wants to have DWS staff provide comments on, from a function-and-form standpoint. Ms. Lee Loy noted that Ms. Self is also interested in this matter, because the mechanism of how to collect delinquent sewer bills needs to be addressed. Ms. Lee Loy said she would get that last draft to Ms. Self and

the Manager-Chief Engineer; she asked that the staff review it over the next month, with an eye to how the amended Rule would affect DWS work from a practical standpoint. She noted that the Board's drafting of the amended Rule was taken from an academic standpoint, but the Board wants to be sure that the amended Rule will work. That is the kind of feedback that Ms. Lee Loy said she is seeking from staff. In the meantime, Ms. Self will have the opportunity to seek input from the sewer division of the Department of Environmental Management. She explained to the new Board members that some people do not pay their sewer bill, but they pay their *water* bill. To initiate a water shutoff for failure to pay a sewer bill poses a challenge, she said. Providing that mechanism to collect delinquent sewer bills was the other component of the amended Rule, Ms. Lee Loy said.

Mr. Elarionoff asked if Ms. Lee Loy thought that passing the burden on to the landlord would work.

Ms. Lee Loy said that the ideal would be to have water as a service that is *appurtenant* to that real property. In past cases, a tenant would run up a water bill and walk away from that water bill. A new tenant would come in to apply for water service on that property, and DWS would be unable to collect that unpaid bill. Therefore, Ms. Lee Loy and her committee refined the Rule language to make it clear that the water service is appurtenant, or belonging to, the real property itself. This would make the water service agreement between DWS and the real property tax owner. The question is, from the staff's standpoint, how to make that happen. The other issue that the amended Rule deals with is how to deal with delinquent sewer bills, where the customer pays his water bill.

Mr. Elarionoff asked how other utilities such as electric, telephone, or cable handle delinquent bills.

Ms. Lee Loy said they shut off the service.

Ms. Self agreed that service was shut off, with proper notice.

Mr. Balog raised the idea of pre-paid water meters; he asked if that option could be explored. He suggested that real property owners might want to make tenants be on a pre-paid meter.

Ms. Lee Loy said that this was an alternative that DWS could explore. She said a pre-paid meter would be like a pre-paid cell phone, whereby a person pays for the service first and uses it up. DWS is just the opposite: the customer uses the water first, and DWS bills them. Pre-paid meters could be an option, especially for rental units.

Mr. Elarionoff said that makes sense, noting that drivers don't *use* the gasoline in a car and pay for it later.

Chairperson Robinson noted that when a tenant absconds without paying the electric bill, the owner of the property is told by the utility to pay the back bill before the utility would reinstate service. DWS just wants equal standing with other utilities, he said.

Ms. Lee Loy said that is all that the Board is trying to do – to close that gap.

Chairperson Robinson said that next month, the staff will have had a chance to review the last draft of the amended Rule, and will provide input to the Board.

G. **MONTHLY PROGRESS REPORT:**

Chairperson Robinson asked whether there are currently four contracts among the works in progress.

Mr. Inaba confirmed this. He noted that the Kapulena Well Development – Phase 2 is just about to go to bid as well.

Chairperson Robinson asked whether the Ola‘a No. 6 Production Well and 1.0 MG Reservoir project was almost done.

Mr. Inaba said that DWS and the contractor are reviewing documentation to see what the final outcome will be; DWS, the contractor and the sub-contractors have been meeting to resolve various issues that arose during that project.

Turning to the Queen Ka‘ahumanu Highway Widening project, Chairperson Robinson asked about the total amount of \$3.444 million and the paid-to-date amount of \$1.169 million. He asked whether DWS had actually paid \$1.169 million, or \$3.444 million.

Mr. Inaba said that the \$3.444 million was the total contract amount, plus the contingency. These were certified funds that were paid to the State. He clarified that the **\$1.1648** million was paid to the contractor.

The Manager-Chief Engineer clarified that the \$1.1648 million was not paid by DWS to the contractor. He said that DWS paid the State when it cut them a check for that full \$3.444 million.

H. REVIEW OF MONTHLY FINANCIAL STATEMENTS:

Mr. Sumada said that June is the Fiscal Year end; the auditors are looking at the books now, and will finish up in September. The County had hired them on a four-year contract. The auditors will report to the Board once the audit is done, Mr. Sumada said.

Mr. Elarionoff asked what long-term debt, listed on Page FS2, meant.

Mr. Sumada explained that long-term debt is made up of general obligation bonds that the County acquires on behalf of DWS. DWS primarily uses the bond proceeds to pay for construction. The Department pays back the bond over 20 years; this constitutes a long-term obligation.

Mr. Elarionoff asked what standby charges are.

Mr. Sumada said that standby charges are found on a typical water bill, and they represent a minimum monthly charge for service. Regardless of how much water a customer uses or does not use, the customer is charged this standby charge, which is a charge for having the connection.

Mr. Elarionoff asked about the item on Page BUD1 listed as “Tree Removal at WOP,” for \$128,000.00.

Mr. Sumada said that was how much it cost to remove the eucalyptus trees that were growing at the Waiākea Office Plaza, which is DWS’s main office, on Kekūanāo‘a Street. He said that the tree removal involved a grove of eucalyptus trees standing more than 100-feet tall in the front of the building, and a large banyan tree in the back.

I. MANAGER-CHIEF ENGINEER’S QUARTERLY UPDATE:

Looking at the spreadsheet provided, Chairperson Robinson noted the entry regarding high-speed Internet connectivity, and said that item was approved a year and a half ago.

The Manager-Chief Engineer said DWS had secured Oceanic Time-Warner through the procurement process, and the vendor had installed all of the fiber optic and equipment in the outer districts: Kona, Waimea and Ka'u. At this point, it is up to DWS to make sure that its hardware is capable of accommodating that higher speed. Once up and running, the districts will be able to get information that is centrally located, and will be able to access data such as GIS maps and plans, etc., in a reasonable fashion, he said. With high-speed connectivity, the district will no longer have to wait for plans, etc., to be printed out.

J. MANAGER-CHIEF ENGINEER'S REPORT:

The Manager-Chief Engineer will provide an update or status on the following:

- 1) Public Information and Education Specialist Update – Ms. Aton distributed registration packets for the Hawai'i Water Works Association (HWWA) 2015 Annual Conference, to be held in Honolulu from October 14 through 16. She also distributed flyers for the Third Annual Joint Government Water Conference, to be held in Kona on August 11, and in Hilo on August 13. Mr. Elarionoff asked how attendance at these conferences would benefit him. The Manager-Chief Engineer said the Joint Government Water Conferences were really useful, and they involve DWS and its two regulating authorities, the State Department of Health and CWRM. The conferences cover topics that are really pertinent to DWS, he said. The Manager-Chief Engineer said he was attending both the Kona and Hilo sessions, and noted that the Kona session would feature the WUDP update. He encouraged interested Board members to attend one of these free sessions, and said that staff would register interested Board members. Regarding the HWWA conference in October, this conference is not free, and there is a budget for four Board members to attend, based on Board seniority. He encouraged interested Board members to notify DWS; the four most senior Board members who wish to go will be able to attend. Chairperson Robinson noted that West Hawai'i Today recently ran a letter to the editor which espoused Mr. Keith Okamoto's appointment as Manager-Chief Engineer. Chairperson Robinson said he thought the letter was great, which praised Mr. Okamoto as very well-qualified, and approved the orderly recruitment process through which he was selected.
- 2) Recognition of Employee of the Quarter – *(This item was inadvertently skipped, and the Board returned to it later in the meeting.)*

K. CHAIRPERSON'S REPORT:

Chairperson Robinson encouraged Board members to attend one of the Joint Conferences; he planned to attend the Kona session.

L. MANAGER-CHIEF ENGINEER RECOMMENDATION OF MR. KAWIKA UYEHARA FOR POSITION OF DEPUTY -- CONFIRMATION OF DEPUTY, SALARY, AND EFFECTIVE START DATE:

In a letter dated July 7, 2015, the Manager-Chief Engineer said that he had recommended Mr. Kawika Uyehara for the position of Deputy. He said that when he considered people for the position of Deputy, he was looking for someone who could serve the Department well in the event that he himself no longer was leading the Department. He wanted someone who could step in and do a commendable job. The qualities that the Manager-Chief Engineer was seeking were character, integrity, commitment to the Department, trust, respect, professionalism, complementary and supplemental skills and knowledge, the ability to work with the public, long-term and big picture vision, a quick learner, and someone with community connections. While he had several people in mind, he wanted to look within the Department, where there are qualified

individuals. The Manager-Chief Engineer said that going down the list of characteristics that would be good for the Department, it was pretty much a no-brainer that Mr. Uyehara would be the choice. The Manager-Chief Engineer said he was very grateful that Mr. Uyehara agreed to be the candidate, because he believed that the two of them would make a good team going forward.

Mr. Uyehara said he was very honored and humbled to be offered this opportunity, which he sees as an opportunity to serve the Department, the Water Board, the Manager-Chief Engineer, the employees, the County of Hawai'i, and DWS's customers and the public. He said he is very excited, and if confirmed, he would have a lot to learn, but he is willing to do it, and appreciates it.

The Manager-Chief Engineer said that Mr. Uyehara's willingness has always been evident. He recalled when DWS just hired Mr. Uyehara, one of the first things that he was asked to do was go out to a public information meeting in Kapulena. The topic of that meeting was somewhat controversial, and Mr. Uyehara was challenged to provide some input. Mr. Uyehara did not shy away, and instead, he stepped up to give it his best shot. The Manager-Chief Engineer said that that has always been Mr. Uyehara's attitude: he has always been willing to give it his best shot for the benefit of the Department, even in difficult or uncomfortable circumstances.

Mr. Takamine said that he had known Mr. Uyehara for over 25 years, and he considers Mr. Uyehara a friend. Mr. Uyehara is a man of high moral character, and is one of the most honest people that Mr. Takamine knows. Mr. Takamine said that Mr. Uyehara is a very hard-working person, who takes his job seriously. Mr. Uyehara, if confirmed, will be a great complement to the leadership team, Mr. Takamine said.

Mr. Elarionoff asked what community connections Mr. Uyehara has.

Mr. Uyehara gave some personal background, saying that he was born and raised on Oahu, but moved to the Big Island in 1989. He graduated from Waiākea High School, where he met Mr. Takamine 25 years ago. He said that he was involved in baseball and Little League, and after graduating from Waiākea, he went to the University of Washington, where he earned his bachelor's degree in Civil Engineering. Mr. Uyehara said he worked in Seattle for a couple of years, but decided to come home to Hawai'i. He worked for a private consulting firm on Oahu for about six and a half years, and in 2007 he was hired by DWS. He noted that he had interned at DWS during college. Mr. Uyehara said that he and his family stay active in the community here.

The Manager-Chief Engineer said that Mr. Uyehara is being humble about his community connections; he noted that during Hurricane Iselle last year, he and his friends, including Mr. Takamine, distributed food as volunteers. Mr. Uyehara volunteers for outreach activities such as Water for People and Drinking Water Week, visiting schools, etc. and public places like Prince Kuhio Mall to talk to the public about water quality, etc. Mr. Uyehara is too humble to talk about things like that, but that is the kind of thing that the Manager-Chief Engineer was looking for when he chose Mr. Uyehara.

Mr. Elarionoff asked what percent of DWS employees would support Mr. Uyehara as Deputy.

The Manager-Chief Engineer felt that the vast majority of employees would support Mr. Uyehara, especially employees who have worked with and interacted with him. He said he was confident that employees who have worked with Mr. Uyehara would support his nomination as Deputy for the Department.

Mr. Elarionoff asked Mr. Uyehara how he viewed this opportunity.

Mr. Uyehara said he viewed this opportunity as very open; he feels that he is growing as a person and as a DWS employee. This is an awesome opportunity. Mr. Uyehara said he wants to be a listener and a learner, to help make good decisions for the Department in the long run with its vision and mission statements in mind.

Mr. Elarionoff asked what Mr. Uyehara thinks of the Board; he said that the answer to this question will determine how Mr. Elarionoff votes.

Mr. Uyehara said that he respects the Board very much. He said that as he attends more Board meetings, he has seen that the questions that come up are very good ones. He has watched the interactions among the Board, the Manager-Chief Engineer, the Deputy and the staff, and the back-and-forth communication among them has helped make the best decisions for the Department and the community.

Ms. Lee Loy said that in taking leadership training, one comes to recognize one's strengths and one's challenges. She asked Mr. Uyehara what challenges he expects to face as Deputy. She also asked what would be the most challenging part of the job as Deputy, and asked Mr. Uyehara how he would address it.

Mr. Uyehara said that the most challenging part for him was evaluating each situation, and knowing when No means No. He said that he sometimes finds himself a little accommodating, but in the past several years as a supervisor, he has had to learn when, after having heard everybody's input, No means No. As for the biggest challenge as Deputy, Mr. Uyehara said that the Department has around 160 employees; he wants to know everybody face to face. This means going out to the districts to meet the staff. When there is an emergency or when management needs assistance from another district, it will be easier to get on the phone to explain the situation and ask for collaboration to solve the problem.

Mr. Arikawa said that his wife knows Mr. Uyehara's family pretty well, having worked with Mr. Uyehara and his parents in managing properties. Mr. Arikawa said that he himself only got to know Mr. Uyehara during the recent trip to the AWWA conference in Anaheim, but Mr. Arikawa said that his wife speaks highly of Mr. Uyehara and his family. Therefore, if his wife says Mr. Uyehara is good, that is good enough for him, Mr. Arikawa said.

Chairperson Robinson recalled how, just four years ago, Mr. Okamoto was sitting where Mr. Uyehara was sitting, when then-Manager-Chief Engineer Quirino Antonio, Jr. recommended Mr. Okamoto as Deputy. Mr. Antonio was a good mentor in getting his staff to grow, and he obviously made the right choice in selecting Mr. Okamoto as Deputy. It is interesting to see how time progresses, and things move on, Chairperson Robinson said.

ACTION: Ms. Lee Loy moved to accept the nomination of Mr. Kawika Uyehara as Deputy; seconded by Mr. Takamine, and carried unanimously by voice vote.

Before the discussion of Mr. Uyehara's salary commenced, Mr. Ikeda reminded the Manager-Chief Engineer that the Board had skipped over Item 10(J) (2), Recognition of Employee of the Quarter.

Mr. Sumada said that the Employee of the Quarter is Ms. Kate Wood, but she was not in attendance today.

Chairperson Robinson, moving back to the salary discussion, said there was no need to have an Executive Session. He asked the Manager-Chief Engineer to just give the Board his recommendation on the salary.

The Manager-Chief Engineer recommended that the salary be set at \$100,000.00, and that the starting date for the Deputy be August 3. The salary recommendation was based on what the Salary Commission had established with other deputies within the County of Hawai'i system; he also based it on a review of salaries for the deputies at the other Departments of Water Supply in the State. The Manager-Chief Engineer said he thought that \$100,000.00 is a fair salary for that position, and that Mr. Uyehara will be a bargain at that. He said that Mr. Uyehara will be doing about three or four jobs. The Manager-Chief Engineer offered background on the other deputies' salaries, noting that the Deputy Director of Human Resources makes \$94,284.00, while the Deputy Director of Environmental Management makes \$104,502.00. Those salaries seem to be the two salaries for deputies in the various departments; it was not clear how the Salary Commission came up with that, but in light of that, the Manager-Chief Engineer thought that \$100,000.00 was fair. As for other Water Departments, the Deputy Manager in Honolulu makes \$150,897.00; the Deputy Manager on Maui makes \$108,293.00; and the Deputy Manager on Kaua'i makes \$98,748.00. Summing up, the Manager-Chief Engineer said he thinks his recommendation is an appropriate amount.

MOTION: Mr. Balog moved to approve the salary at \$100,000.00; seconded by Mr. Arikawa.

Chairperson Robinson said that the Motion is to approve the salary of the Deputy at \$100,000.00.

The Secretary asked whether the Motion included a starting date as well.

Chairperson Robinson said yes, the starting date would be August 3.

ACTION: Motion carried unanimously by voice vote.

Mr. Uyehara thanked the Board for this opportunity.

The Manager-Chief Engineer thanked the Board for the trust they had in his selection of Mr. Uyehara.

M. EXECUTIVE SESSION RE: CONFIRMATION OF DEPUTY, SALARY, AND EFFECTIVE START DATE:

No Executive Session was held.

11) **ANNOUNCEMENTS:**

1. **Next Regular Meeting:**

The next meeting of the Water Board is scheduled for 10:00 a.m. on August 25, 2015, at the West Hawai'i Civic Center, Community Center, Bldg. G, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI.

Mr. Arikawa reminded the Board that there will be a Public Hearing on the Power Cost Charge, to precede the regular meeting, at **9:45 a.m.**

2. **Following Meeting:**

The following meeting of the Water Board will be held at 10:00 a.m. on September 22, 2015, at the Department of Water Supply, Operations Center Conference Room, 889 Leilani Street, Hilo, HI.

Chairperson Robinson said that he would be away for the September 22, Board meeting, so Vice-Chairperson Takamine will preside.

12) ADJOURNMENT

ACTION: Mr. Balog moved to adjourn; seconded by Ms. Lee Loy, and carried unanimously by voice vote.

The meeting adjourned at 1:55 p.m.

Secretary

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

Notice to Lobbyists: If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist. {Article 15, Section 2-91.3(b), Hawai'i County Code} A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." {Article 15, Section 2-91.3(a)(6), Hawai'i County Code} Registration forms and expenditure report documents are available at the Office of the County Clerk-Council, Hilo, Hawai'i.