

**MINUTES**

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

October 10, 2011

Department of Water Supply, Operations Center Conference Room

MEMBERS PRESENT: Mr. Dwayne Mukai, Chairperson  
Mr. David Greenwell  
Mr. Bryan Lindsey  
Mr. Delan Perry  
Mr. Art Taniguchi  
Mr. Milton Pavao, Manager, Department of Water Supply  
(ex-officio member)

ABSENT: Mr. Robert Meierdiercks, Vice-Chairperson  
Mr. Kenneth Kaneshiro, Water Board member  
Ms. Bobby Jean Leithead-Todd, Director, Planning Department (ex-officio member)  
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)

OTHERS PRESENT: Ms. Kathy Garson, Assistant Corporation Counsel  
Ms. Emarie Carvalho, Legal Technician, Corporation Counsel  
Ms. Nancy Cook Lauer, West Hawai'i Today

CALL TO ORDER - Chairperson Mukai called the Special Meeting to order at 10:11 a.m.

**STATEMENTS FROM THE PUBLIC:**

None.

**MISCELLANEOUS:**

**A. DISCUSSION OF PROCESS AND CRITERIA FOR SELECTION OF NEW MANAGER-CHIEF ENGINEER OF THE DEPARTMENT OF WATER SUPPLY:**

Chairperson Mukai provided to the Board copies of a draft letter to all DWS employees, to solicit their input on what **individual qualities** would be desirable in the next Manager-Chief Engineer. He proposed that the staff could give their comments either as public testimony at the upcoming Board meeting or in writing. He said that staff members could remain anonymous, and only needed to indicate that they were DWS employees.

Mr. Taniguchi asked if there were a deadline for submissions.

Chairperson Mukai said that he had left the deadline part open for discussion.

Mr. Perry asked whether the wording "individual qualities" would restrict the type of comments that would be submitted.

Chairperson Mukai said that this was just a draft; he had only put it together this morning. The qualities could be things like leadership, etc.

Mr. Perry said the way he looked at “individual qualities” was something like *personal* qualities.

The Manager-Chief Engineer said that he thought the word “individual” should stay in there, because that denotes the individual qualities that are looked for in someone who leads the Department.

Mr. Taniguchi suggested that maybe it should be simply “qualities.”

Mr. Perry agreed.

Chairperson Mukai said that the draft was just something he did for the sake of discussion. He said he thought it would be good to get input from every DWS employee, from management down to the meter readers; everyone should have a say and should be given an opportunity to provide input.

Mr. Taniguchi asked where this draft letter was going to go.

Chairperson Mukai said it could go as an email or a letter; he was not sure what the best way was to circulate the letter to all employees.

Mr. Taniguchi said that was not what he meant; he meant to ask where the employees would send their comments.

Chairperson Mukai said he did not know the protocol. He said he assumed that the comments should be considered public testimony; the comments would be sent by the staff to the Board Secretary.

Mr. Perry asked whether there were any Sunshine Law issues.

Ms. Garson said no, because it involves DWS employees communicating with the Board. She suggested that if the comments are treated as Statements from the Public, the comments would come in to the Board Secretary. The Board Secretary would then distribute copies of the comments to the Board so that they can read the comments prior to the meeting, Ms. Garson said.

Chairperson Mukai said that was great. He said he just wanted to get the Board’s feedback on doing the draft letter; with the Board’s approval, he would ask Ms. Garson to review it to ensure it had the appropriate verbiage. He asked what the deadline for receiving comments would be.

Ms. Garson noted that the next regular meeting is on November 22, in Kona.

Chairperson Mukai confirmed this, saying that in the letter he had put in the dates for the next two regular meetings: October 25 (in Hilo) and November 22.

Mr. Taniguchi said that because it would not be feasible for most employees to provide public testimony in person, the employees should provide their input in writing, addressed to the Chairperson. The Board Secretary can collect all of the comments and forward them to the Chairperson, he said. Otherwise, it might get rather chaotic, he said.

Chairperson Mukai said the reason he had put Statements from the Public in the draft letter is because that is the standard vehicle for public testimony on every Agenda. He acknowledged that it would be very difficult for a lot of the staff to testify in person, and said that was why he put in the option to provide written testimony.

Ms. Garson said the Statements from the Public are the means for anyone to provide testimony, but she expected that employees are more likely to submit comments in writing because it is more convenient.

Mr. Greenwell asked whether November 8 was still the date set aside for the next Special Meeting.

Ms. Snyder confirmed that November 8 was the date, although the venue was still undecided.

Mr. Taniguchi agreed that the venue was still undecided.

Chairperson Mukai said that the Board can decide that today.

Ms. Garson said that setting the deadline for comments at November 22 seemed a bit late. She said that the Board would want to get input from the staff before candidate interviews start, so a November 22 deadline for comments would be a little late.

Mr. Perry suggested making November 8 the deadline for comments.

Chairperson Mukai, reading from his draft letter, suggested having it read: “our regularly scheduled meeting, October 25 in Hilo, or at our special meeting on November 8,” wherever that meeting will be. *Note: The full sentence in the draft would read: “Your input is a critical component in the selection process and can be done in person or in writing, during the “Statements from the Public” portion of our regularly scheduled meeting, October 25<sup>th</sup> in Hilo, or at our special meeting on November 8.”* He said that the comments could be sent to the DWS Main Office.

Mr. Perry said he thought the comments might be incorporated into an interview question, to which the Board would have to agree in advance of the interviews. He noted that the Board today would be working on the interview questions.

Chairperson Mukai said the Board was still taking baby steps, but the Board will discuss the comments that come in from staff to determine what ideas have merit. If the comments warrant it, the Board could agree to a question that reflects the staff’s input. He noted that it looks as if the Board will be holding more Special Meetings, which is fine.

Ms. Garson said she was going to change the sentence in the third paragraph of the letter (*in italics above*) to say that comments can be provided either as verbal testimony during the Statements from the Public segment of the Agenda, or in writing which can be submitted anytime. The written comments would be submitted by staff to the Chairperson, care of the Board Secretary. She suggested putting the Board Secretary’s email address in the letter for submissions.

Mr. Lindsey asked whether the Board would need to have read the written testimony before the meeting.

Ms. Garson said that the Board would need to have time to read the written testimony before the meeting.

Mr. Lindsey asked whether the written testimony would need to be available before the meeting date, or on the meeting date.

Ms. Garson said it would be needed at least just prior to the meeting.

Chairperson Mukai said that ideally, the written testimony would go directly to the Board Secretary, and then the copies of all of the written testimony would be circulated to the Board prior to the meeting.

Mr. Perry said it would be needed prior to the meeting so that the Board could digest it.

Chairperson Mukai said that the deadline for the written testimony should be prior to November 8, so that the Board has the testimony in hand.

Mr. Taniguchi asked whether all of the comments would need to be read aloud as public testimony.

Ms. Garson said no, the main thing is that the Board needs to have *read* the comments. The comments do not need to be read into the record at the meeting. The main thing is that the Board will have read the comments ahead of time; the Board could receive 50 or so written statements from staff, she added.

Mr. Perry asked whether the comments would be part of the public record.

Ms. Garson said they probably would be.

Chairperson Mukai said that he would think they would be part of the public record.

Mr. Taniguchi said that if necessary, the Board could go into Executive Session.

Ms. Garson said yes, and Corporation Counsel would give it a Communication Number. She said that the Board is just asking the staff for *criteria*, and if a staff member who wishes to remain anonymous emails his or her comment, the return email address can be redacted (blacked out). Normally, Public Statements are not made anonymously. However, in this case, if the Board wishes to allow anonymous comments, the Board can do so.

Chairperson Mukai said he believed this was a special situation; if he were a DWS employee, he would not want to submit testimony with his name attached to it. The Board in this case should make an exception, and allow anonymous comments. He thought that the Manager-Chief Engineer's detailed job description provided by the Human Resources Department should cover the majority of the input that will come in from staff. Some comments might stand out, but 90 percent of the comments that come in will probably be addressed by the detailed job description. The reason for doing the draft letter is to provide every employee with an opportunity to give input, as the Board makes a major decision to determine who the next Manager-Chief Engineer will be. He asked whether a Motion was necessary at this point.

Ms. Garson said no.

Mr. Greenwell said that because there are no Kona representatives currently on the Board, the venue for the November 8 Special Meeting should be in Hilo.

Ms. Garson agreed that the venue should be announced.

Chairperson Mukai asked that the draft letter should be addressed first, and then the venue for the November 8 meeting can be decided. He asked the Board if there were any concerns about the letter.

Mr. Perry asked if he should make a Motion.

Ms. Garson said no Motion was necessary, as long as there is consensus among the Board that the letter to seek employees' input is something the Board wants to do. Once the Board agrees to that, the logistics can be worked out, she said.

Chairperson Mukai said that Ms. Garson would hammer out the correct verbiage of the letter. He asked the Board if that was okay. (*The Board signaled its assent.*) Regarding Mr. Greenwell's request to hold the November 8 Special Meeting in Hilo, the Chairperson noted that the date had been left blank because at the time it was not clear that a meeting would be necessary. However, it is now clear that the Board would need to meet on November 8. He asked whether the November 8 meeting should be in Hilo or Kona.

Mr. Taniguchi said it should be in Hilo.

Mr. Greenwell said that Kona at present has no representation on the Board; he noted that Hilo has the meeting facilities available, so the November 8 meeting should be in Hilo.

Chairperson Mukai entertained a Motion to hold the November 8 meeting in Hilo.

MOTION: Mr. Greenwell so moved; seconded by Mr. Perry.

Ms. Garson noted that the regular Board meeting on November 22 will be in Kona, and there will be Statements from the Public at that meeting.

Chairperson Mukai said that Kona will have an opportunity to make public testimony at that time.

Ms. Garson said that the November 8 will be dedicated to the selection of the new Manager-Chief Engineer, and most of the meeting will be in Executive Session.

Chairperson Mukai said that the deadline for providing written input for the November 8 Special Meeting should be November 6<sup>th</sup> or November 7<sup>th</sup>.

Ms. Garson agreed, and said that the first time that the Board will actually hold interviews is at the November 22 regular meeting. By that time, the candidates are likely to be public, and so the public can give testimony on the candidates at the November 22 meeting during the Statements from the Public segment.

ACTION: Motion carried unanimously by voice vote.

ACTION: Mr. Taniguchi moved to go into Executive Session; seconded by Mr. Perry. Motion carried unanimously by voice vote.

The Manager-Chief Engineer said that he was recusing himself from the Executive Session, but asked to distribute to the Board a list of suggested questions for candidates. He asked the Board to consider his suggested questions, which are aimed at getting some insight into the personality and integrity of the candidates.

Ms. Garson noted that these questions are confidential, so copies would be restricted to Board members for their consideration.

Chairperson Mukai said he appreciated that the Manager-Chief Engineer was recusing himself from the Executive Session.

*(The Manager-Chief Engineer and Ms. Cook Lauer left the meeting at 10:32 a.m.)*

**B. EXECUTIVE SESSION RE: PROCESS AND CRITERIA FOR SELECTION OF NEW MANAGER-CHIEF ENGINEER OF THE DEPARTMENT OF WATER SUPPLY:**

The Water Board convened an executive meeting, closed to the public, pursuant to Hawai'i Revised Statutes, Sections 92-4 and 92-5(a)(4) for the purpose of consulting with the Water Board's attorney on questions and issues pertaining to the Water Board's powers, duties, privileges, immunities and liabilities. A two-thirds vote, pursuant to HRS Section 92-4, is necessary to hold an executive meeting.

*(The Board went into Executive Session at 10:32 a.m. and ended at 12:05 p.m.)*

**STATEMENTS FROM THE PUBLIC:**

None.

**ADJOURNMENT**

Chairperson Mukai entertained a Motion to adjourn the Special Meeting.

**ACTION:** Mr. Perry so moved; seconded by Mr. Taniguchi. Motion carried unanimously by voice vote.

The Special Meeting adjourned at 12:07 p.m.

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### Acting Secretary-Administrative Assistant

*Anyone who requires an auxiliary aid or service for effective communication or a modification of policies or procedures to participate in this Water Board Meeting should contact Doreen Shirota, Secretary, at 961-8050 as soon as possible, but no later than five days before the scheduled meeting.*

*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.*

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