

Rules Committee Meeting

August 15, 2011
3:00 p.m.

Committee Members Present: Daryl Kaneshiro, *Vice Chair*, Clyde Nakaya

Absent/Excused: Mr. Dahilig, *Chair*

Board Members Present: Roy Oyama, Randall Nishimura

Staff Present: David Craddick, Marites Yano, Gregg Fujikawa, William Eddy, Val Reyna, Faith Shiramizu, Keith Aoki, Dustin Moises, Deputy County Attorney Andrea Suzuki

Guests Present: David Hinazumi (Grove Farm), Michael Tresler (Grove Farm)

Vice Chair Kaneshiro called the meeting to order at 3:16 p.m., Quorum was achieved.

AGENDA

Mr. Nakaya moved to accept the agenda as circulated, with no objections, motion was carried.

OLD BUSINESS

Re: *Manager's Report No. 11-24 – Committee Discussion and Possible Action on Part III Rule Amendments – Establishing Standards for Subdivision Water Systems*

- i. Attached Proposed Draft Bill No. 2380
- ii. Attached Proposed Draft Bill No. 2401
- iii. Attached Approved Bill No. 2401, Draft

DISCUSSION:

Manager Craddick explained that Part 3 Section 1 of the rule and Section XII stated that modification of the rule can be made by the department. On page 4 of Part 3 Section 1 Definition of Department means, Department of Water, County of Kauai, consisting of a Board of Water Supply, a Manager and Chief Engineer and the necessary staff. The way this was being changed in the past was that the Manager was making changes to the rules. Manager Craddick explained he did not want to be making changes in the subdivision rule except the governmental subdivision, the utility, and large lot subdivision. Since the original intent was for the Manager to be the one to be able to change the rules and instead of taking these intended changes, it is requested to include the manager in there. The question is what criteria would the Manager use to review these things? Does the board still want to be involved in these exemptions of these subdivisions? If so, does this belong in Section 1?

It is recommended to throw these recommendations out and we can come back with a new Manager's proposal. Vice Chair Kaneshiro asked committee member Clyde Nakaya and the rest of the Board that

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the two questions here are if we want to focus on moving this part on or to work on all the rule changes?

Mr. Nishimura questioned at what point it would be addressed regarding Grove Farm's request regarding Part 3 standards as well as Ordinance 2381. Is there a policy that is set up to some kind of traceable means if we are faced with similar requested provided that we are following the standards?

Section E Page 27 states to exempt the Board for these opposed rules. The same standards apply to the Manager under this proposed rule. The Board was not provided the proposed rule to cross check these standards.

Deputy County Attorney Andrea Suzuki stated the decision to make is if the board would want to have standards apply to everything that came up to the Manager as far as correspondence received or mainly with specific deviations. The Manager would have to have these three findings before you would meet its deviation and it would also apply to the Board to meet these findings in addition to whether the public interest is applied or what not.

Mr. Nishimura expressed that structurally this could work, especially with the two thirds requirement assuming there may be cases that the Board, Manager, and Chief Engineer would not agree.

Deputy County Attorney Andrea Suzuki explained that the discussion would come to the Board if the applicant does not agree with the Manager. Using the same standards, the Board would make the appropriate decision. For the County Attorney's opinion on this matter, more time is needed to think of all the possible scenarios that may arise on whether to treat this issue on Part 1 or specifically in the other parts of the rules.

Mr. Tressler representing Grove Farm requested to withhold any comments until a final product is given from the Board. Mr. Tressler expressed his appreciation from the Board and the Manager with the flexibility to improve the process and recognizing the challenges for large scale developers.

Mr. Nakaya moved to defer *Manager's Report No. 11-24* – Committee Discussion and Possible Action on Part III Rule Amendments – Establishing Standards for Subdivision Water Systems until new proposals are received from the Manager and refer to Deputy County Attorney Andrea Suzuki whether the Board's standards should be in Part 1 or Part 3, seconded by Mr. Kaneshiro; by a unanimous vote, motion was carried.

Re: *Manager's Report No. 11-28* – Request Board Approval of Facilities Reserve Charge Changes

- i. Rule changes to implement FRC in Part Three and added section of the rules for FRC

DISCUSSION:

This issue was from October of 2010, we were looking at changing the FRC charge and the recommendation at the time was 2 ½ times more than it was.

Issues that occur:

1. When the FRC is paid and the facilities are put in, the FRC payment is given back.

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2. When the FRC is paid at subdivision time and the meter is not put in for a long time, the fee goes up and there is no depreciation payment being made.

The proposal is a whole new Section 5 of the Rules and the question is if you want everything dealing with the development fee in that section or if you want some of it sprinkled into subdivision? Right now it is sprinkled into both of them because we want to collect payments during the subdivision time but we do not like the fact that people can sit and wait and never put their meter in. This would force them to put the meter in. Manager Craddick's recommendation for this item is to defer this item to give the Rules Committee a chance to read up on it and open it for discussion on the next meeting.

Mr. Nishimura commented that one of the things to look at is to see if we are looking to revise a whole new Section 5 or complete a hybrid with Part 3 and Part 5. If we are doing a hybrid we have to make sure the two parts are in concert with each other. This direction should be made by the next Rules Committee meeting.

Mr. Nakaya moved to defer *Manager's Report No. 11-28* – Request Board Approval of Facilities Reserve Charge Changes, seconded by Mr. Kaneshiro; by a unanimous vote, motion was carried.

Re: *Manager's Report No. 12- 9 - Requesting approval of rule change to delete leak rebates*

- a. PowerPoint Presentation on how a Private Insurance Company would provide the services that are required.

A PowerPoint Presentation was not made.

DISCUSSION:

During the last meeting the Board Members wanted to know more about the other islands implementing the leak rebates. Oahu and Kauai has the similar leak rebates. Maui does not have leak rebates at this current time. If the Board wants to move forward with this, we would have to still go to the small business and have a public hearing. \$300,000 is given away each year due to these leak rebates and it is the other rate payers that are affected due to consumers who do not maintain their system after the meter when the DOW's responsibility is only at the meter.

Mr. Nakaya asked Manager Craddick if his bill goes up to \$10,000 due to a leak, is the consumer responsible for the whole bill? Manager Craddick says that if the consumer is enrolled with the Leak insurance, the insurance would cover that bill. The consumer would file a claim, the insurance company would then pay the consumer, and then the consumer would be responsible for making their water payment. The current leak rebate is 50% if the consumer's bill and is based on the previous six months' average.

Vice Chair Kaneshiro expressed concerns regarding the monthly billing being implemented in December. With monthly billing, the number of leaks that are detected would come down due to closer monitoring instead of billing the consumer every two months. It is suggested that the DOW perform some kind of Public Relation action to make the consumer aware and to educate them to check their meters if there is a possibility of a leak on their property.

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Mr. Nakaya moved to approve the Manager's recommendation as stated in *Manager's Report No. 12- 9* - Requesting approval of rule change to delete leak rebates and move this item to the full board for further discussion, seconded by Vice Chair Kaneshiro; by a unanimous vote, motion was carried.

At 4:00 p.m., Vice Chair Kaneshiro adjourned the Rules Committee Meeting.

mjg