

Rules Committee Meeting

August 2, 2016,
9:00 a.m.

Committee Members Present: Michael Dahilig, *Chair*, Sherman Shiraishi, Lyle Tabata

Staff Present: Manager Kirk Saiki, Eddie Doi, Mike Hinazumi, Dustin Moises, MJ Akuna, Deputy County Attorney, Mahealani Krafft

Chair Dahilig called the meeting to order at 9:05 a.m. and quorum was established with all committee members present and with no objections to the Agenda.

OLD BUSINESS

1. *Manager's Report No. 16-58* - Discussion and Receipt on Department of Water's Standard Operating Procedure No. 64 relating to Providing Water Service Outside of the Water Zone

BACKGROUND:

Chief of Water Resources and Planning, Mr. Doi brought up the conflict in the SOP 64 and the items in the rules. The action item was to "define water service limits established by the Department in SOP 64." Service limits would not conflict in item No. 1 with Part 2, Rules and Regulations for Water Service Connection, Section II-General Conditions.

The Water Plan 2020 helped to define the water service area that would guide the Department of Water (DOW) for infrastructure improvements. By using the General Plan and existing facilities, the Department could plan growth in facilities. The Planning Department and the DOW would work together to anticipate future growth in facilities mapped in the water service area. The service water area includes large projects (Kukui'ula, Līhu'e/Puhi/Hanamā'ulu Master Plan).

DISCUSSION:

Mr. Dahilig made a formal suggestion on SOP 64, Page 2 No. 1, subsection c. Development of Affordable or Workforce Housing Projects that needs the entitlements (i.e., permits, zoning; land use designations and what is included in subsection b.).

This could go under No. 1, sub-section a. zoned but could have an affordable project. It could be in subsection b. with affordable entitlements. Mr. Dahilig asked was the intent in subsection c. meant to be only if there are entitlements or is it applicable to zoning under subsection a.? Is subsection c. to have subsection b.? Mr. Doi added subsection c. applies across – Development of Affordable or Workforce Housing Projects.

Mr. Dahilig suggested if the 2nd paragraph of subsection c. could be part of subsection b. (b. is the land owner). He pointed out the first bullet in subsection c. is the same language as subsection a. regarding reviewing adequacy of the source, storage and transmission. The carve out in subsection b. (in or out of the service area) is when you don't have entitlements you need to build the facilities yourself. If you have the entitlements, treatment is like everyone else. If you don't have the entitlements, both parties can compromise for a workable solution. This would be for the second paragraph in subsection c. If a person does not have the zoning, they would have to pay. If there is

no zoning, a water line is needed to be installed, and the Department still evaluates source, storage and transmission (in or out of the zone, affordable or not affordable).

Manager Saiki wanted to simplify the SOP to say “regardless of what the zoning is, the Department will evaluate source, storage and transmission. If outside the zone, the customer needs to build their own transmission.”

Mr. Doi added what triggered the SOP, A&B Properties had 75 acres and the Department directed them to do source, storage and transmission. Then A&B came back later and wanted to do 300 houses, but was out of the zone. The SOP allowed affordable homes for A&B and Lima Ola.

Mr. Dahilig suggested a flow chart if you are in or out of the water service area which will require a yes or no questions. If you are in zone, 1) the Department will review source, storage and transmission and 2) provide the requirement to obtain water service OR if you are out of the zone, you are responsible for any land use changes. He also asked what if you are in the service area but there is no water? The developer would need to build and improve the system which should be added in the SOP (to be added in No. 1).

Mr. Doi said there is a distinction of a water system with the pipe, tank & pumps that are physically identified and the water service area that encompasses planned development. If outside of the service area and takes everything on the inside, this would not help the people who the Department planned for.

Mr. Tabata commented for clarification, if capital was collected from the Facility Reserve Charge (FRC), you would not charge someone if they are inside a service area if there is no water. Mr. Doi explained the FRC collected is to provide for more facilities. Manager Saiki gave the example if Kaua'i Lagoons being outside the zone; they could do a master plan with a hydraulic analysis with the possible outcome on their own capacity.

Mr. Dahilig asked is an SOP that addresses the analysis of how to make the capital investment without the run of the bank and cost burden because nobody is drawing on the system? What if there is no water? An SOP is to encompass everything or is a guide for flexibility.

The direction of the SOP is going back to how the Department did evaluations before SOP 64 was written. Manager Saiki explained if you are out of the zone, you need to do a master plan, what improvements are needed for the system (was the old way). Should this process be written down? Mr. Shiraishi said if the Department is following the old way, why is the SOP needed?

Mr. Tabata commented that the Department was obligated to provide service to “X” number of connections because FRC was collected. The system was designed to accommodate the connections. If something outside the zone takes up capacity, then some homes could not be built.

Water service area was established in Water Plan 2020. The intent was to utilize knowledge from the General Plan and big projects such as Lima Ola. Before Lima Ola was in the zone, they didn't have infrastructure. Kukui'ula was required to do source, storage and transmission.

Mr. Dahilig said in terms of an operating procedure, it did not mesh if you have water or you don't, which the rule says (do not change) but could be tied back to the rule.

Mr. Shiraishi had a concern on the rules Section 2, 1a. - In the event the service limits are established by the Department, the premises are within these limits.

At 9:47 a.m., Mr. Dahilig exited the meeting.

Mr. Doi added currently no service area limits are established. At a certain time, the Department could set service area limits. Habitat for Humanity did not violate 1a. but is outside the service area (which is not defined in the rules). Possibly the Deputy County Attorney could get the definition of what the Department can by law do or cannot do.

At 9:48 a.m., Mr. Dahilig re-entered the meeting.

Here are more suggestions the committee discussed:

- If 1a. is deleted, the other parts of the rule would protect the Department. (SS)
- The phrase “service area” has a geographic reference which are not in the rules. (MD)
- Define and revise the rule 1a (i.e., water service areas are establishes by the Department, or within these areas and to define water service that are serviced by other water service facilities to confirm with the General Plan. Build in the flexibility to the rule. (SS)
- Revisions will be provided to the rule to give the Department flexibility. (SS)

At 9:55 a.m., Mr. Tabata exited the meeting.

- Add a line “... that is geographically reasonable ...” to solve the rule portion. (MD)
- Insert the “... Department or Board can define the limits by resolution.” (KS)

Mr. Dahilig recommended to defer Manager’s Report No. 16-58 - Discussion and Receipt on Department of Water’s Standard Operating Procedure No. 64 relating to Providing Water Service Outside of the Water Zone in two (2) months, until time is set with no objections.

Mr. Dahilig adjourned the meeting at 10:00 a.m. with no objections.

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