

Rules Committee Meeting

May 15, 2012
9:30 a.m.

Committee Members Present: Michael Dahilig, *Chair*, Randall Nishimura, Larry Dill

Absent/Excused:

Board Members Present: Clyde Nakaya (entered at 9:45 a.m.)

Staff Present: David Craddick, Deputy County Attorney Andrea Suzuki, William Eddy, Carol Beardmore, Marites Yano, Dustin Moises, Val Reyna

Chair Dahilig, called the Rules Committee Meeting to order at 9:33 a.m., quorum was achieved.

AGENDA

Mr. Nishimura moved to accept the agenda as circulated; seconded by Chair Dahilig; motion was carried.

Re: Manager's Report No. 11-24 – Committee Discussion and Possible Action on Part III Rule Amendments – Establishing Standards for Subdivision Water Systems as it pertains to Section Roman XII of the Rules and pertaining to modification requirement for subdivision standards.

DISCUSSION:

Manager Craddick referred to Rule Amendments Part III, Section 3 and Part II, Section 2 regarding another portion allowing the Manager to change the standards. The standards do not come to the Board but are included in the report with this change if it is accepted. In Section 2, the Board wanted to go through all Subdivision Rules. Section 2, states “The Manager and Chief Engineer may, for good cause shown, permit departure from the standards or 2005 Amendments or both.” By adding the language requirements, it becomes modified. A few changes from the standard could be reported to the Board every year. The changes usually deal with manufacturers that supply materials which are allowed or not allowed. Manager Craddick explained this is under the Hawaii County Water System Standards.

What Manager Craddick and Chair Dahilig proposed are changes in red on page 32 (any waiver or modifications). The change should be recommended after a monthly report to the Board adding a period, striking the rest of it and adding this sentence: “If the Board chooses to deny or modify the Manager and Chief Engineer’s decision, they must do so by a two-thirds vote. “

Manager Craddick would append a list of exemptions to his monthly report at the conclusion of the meeting which would be considered approved and have concurrence with the decision. The next sentence states, “Should the Board choose to deny or modify, it must do so by a two-thirds vote.” Chair Dahilig agreed if a decision is overridden, a two-thirds vote is needed.

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Chair Dahilig stated on Session 2, if the Board takes action, the incentive is to have the applicant work with the department first and resolve all problems before coming to the Board. In a normal contested case proceeding, it is meant as a simple majority which should be appropriate.

Chair Dahilig stated in Paragraph 1, any waiver or modification which would be subject to the two-thirds vote for the override of a business decision. A two-thirds vote is a super majority which would be 5 of 7. Mr. Nishimura stated this may be practical to actually say 5 votes are needed. The number of members is changed in the Charter and there is no room for argument regarding quorum. Mr. Nishimura questioned what if you do not have 5 or more members.

Mr. Nishimura stated the Board has a time limit of the date of action which is the date of submission of the Manager's Report. With 4 members present, the votes would not be able to override the Manager's decision. If the Board does not agree with the Manager's decision, then it requires a two-thirds or 5 votes. The two-thirds vote is a way to bring both parties to resolving it for the Board. Deputy County Attorney Andrea Suzuki suggested using the phrase "super majority" for the voting body for the upper portion.

Chair Dahilig asked if Mr. Nishimura would like the plan to say simple majority. Mr. Nishimura opted for the higher which Chair Dahilig agreed. Mr. Nishimura explained that the Board needs to be fair and firm with whatever has been decided at the Departmental level with some overriding. Deputy County Attorney Andrea Suzuki added "or unanimous." Mr. Nishimura is in agreement with 5 of 6 votes for the whole Board. Mr. Dill agreed it would take more than a simple majority and either of these cases would be appropriate.

(Clyde Nakaya entered meeting at 9:45 a.m.)

Chair Dahilig inquired if the adoption of the Rules prescribed by the Bylaws, require a simple majority. Chair Dahilig agreed it would take more than a simple majority in either of these cases.

Mr. Nishimura moved to have the Rules Committee recommend approval of Part III, Section XII, entitled, Modification of requirements as *amended* for adoption by the full Board and recommend a Public Hearing, seconded by Chair Dahilig; by a unanimous vote, motion was carried with 3 ayes.

With no further business, Chair Dahilig adjourned the Rules Committee Meeting at 9:51 a.m.

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