

Rules Committee Meeting

November 29, 2012
9:10 a.m.

Committee Members Present: Michael Dahilig, *Chair*, Randall Nishimura, Ray McCormick

Board Members Present: Roy Oyama, Daryl Kaneshiro *Board Chair*, (*entered @ 9:12 a.m.*)

Staff Present: David Craddick, William Eddy, Mary-jane Garasi, Val Reyna, Keith Aoki, Dustin Moises, Gregg Fujikawa, Deputy County Attorney Andrea Suzuki, Sandi Nadatani-Mendez

Guests: Mr. Kamuela Cobb-Adams, County of Kaua'i Housing Director

Chair Dahilig called the Rules Committee Meeting to order at 9:10 a.m., quorum was achieved.

AGENDA

Mr. Nishimura moved to accept the agenda as circulated; seconded by Ray McCormick; with no objections, motioned was carried.

MINUTES

Mr. Nishimura moved to approve the Rules Committee meeting minutes of November 5, 2012; seconded by Mr. McCormick; motion was carried with 3 Ayes.

OLD BUSINESS

Re: a. Water System Development and FRC Proposed Rules, i. Part V Water System Development Fee

BACKGROUND

A deferral for action was made by Mr. Nishimura until the Department has a chance to examine how all the parts of the proposed rule will work together. Many changes will affect parts of the Board Rules which is on-going with the Deputy County Attorney and Manager Craddick.

DISCUSSION

Section I: General Provisions, Page 1

Purpose and Authority

The Purpose and Authority section cites what is required in the Hawai'i Revised Statutes (HRS).

Findings

The Findings section does not encourage growth but implements a community plan. The Board approved to do a Public Hearing regarding the benefit zone issue before Part V is finalized. The first sentence of the Findings section states, "*In the review of the impact of growth relative to the existing and planned capital water system facilities capacity available to the water system, the Board hereby finds that the recent and anticipated population growth rates and corresponding water*

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demands would place additional burdens on the existing water system.” Manager Craddick recommended the word “*recent*” be deleted because there has been a drop in consumption.

The second sentence states, “*The Board further finds that such growth and increased demand would necessitate an excessive expenditure of public funds in order to create adequate facilities and to promote and protect the public health, safety, and welfare.*” This infers that increased demand would require increased expenditure of funds.

The third sentence states, “*The Board also finds that it is fair and reasonable to require new development and/or additional demand to pay its proportional share of the capital costs necessary to accommodate such development.*” This sentence means the people who are creating growth are going to pay for capital costs. The DOW was not charging appropriately for the growth and will continue to fall behind if nothing is done. Mr. Nishimura recommended this statement needs to be included in the Findings.

Deputy County Attorney Andrea Suzuki stated that if the Water System Development Fee (WSDF) study took into account some of the components of the projects the DOW had already developed then that would come under recoupment and the catch up in funding the growth of the water system can be included. The DOW cannot include the catch up if the current FRC study only looks at the future projects that have not been implemented yet.

Manager Craddick commented that the DOW would like to stay with the current practice which is presented in the draft. There will be a phasing out of the exiting fees. If fees were paid in the past, the customer has six (6) months to act on the payment. One portion was changed regarding if a customer does improvements on a subdivision lot and the customer has approval to put in a meter, the improvements need to be completed within six (6) years. Originally the improvements were to be completed within one (1) year. Currently, six (6) years is equal to the time the state law requires the DOW to refund money back to the payor if it is not spent.

Section II: Definitions, Page 2

“*Additional Dwelling Unit (ADU)*” – A period is inserted after Section 8 26.1.

“*Additional water service*” - No change to the definition.

“*Allocation*” – Revised to... *Allocation means reserving a quantity of water to meet the anticipated source, storage and transmission demand of a development.*

Mr. Nishimura requested to add a definition for “*Additional Demand.*”

Deputy County Attorney Andrea Suzuki highlighted the following sections:

Section III: WSDF Fee Schedule, Page 4

This section will be referred to the Finance Committee.

Section IV: Applicability, Page 4

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The Department took current parts of the Rules which were applied to the Facilities Reserve Charge (FRC). Changes to the Rules include the connection on the water system to provide private fire flow subject to a portion of the storage and transmission components of the WSDF.

Section V – Water System Development Fee Computation, Page 5

A. General Provisions - The Department requested the Board's direction on the following two items:

1. *Water System Development Fees will be assessed based on meter size as determined by the Department.*
2. *A minimum of 5/8-inch meter shall be assigned for services requested with no existing meter.*

All new subdivision lots and all single family dwellings based on the current Rules will be assessed \$4,600 (equivalent of one 5/8-inch meter). Every multi-family unit and hotel dwelling unit will also be assessed \$4,600. All other types of dwellings will be determined by meter size by the DOW.

If the Department uses fixture unit counts, the inequity needs to be closed before the fixture units are attempted. Currently the commercial meters are sized for fixture units and individual homes are not sized for fixture units. The size of the water meter or the number of units whichever the FRC calculation becomes larger, the Department assists in the larger amount. The meter size is determined by a fixture count method or based on demand which is a hybrid.

The R. W. Beck study has graduated amounts per meter size. If there was a pre-determined discounting under the current Rules, the meter size rates of a 5/8-inch meter size is charged as residential regardless of the number of bedrooms.

If a residential unit is by fixture unit to determine meter size, it would bump customers up to the 3/4-inch meter size and would be cost prohibited for a family trying to put up a single-family home. The fixture count would have timing issues enforcing the FRC charge. Manager Craddick understands that the Board would like to keep this the same for the residential homes even if the language states, "*as determined by the Department.*" Chair Dahilig suggested to defer the fixture unit for residential.

A hotel dwelling unit and affordable housing multi-family units would need to be clarified for the Small Business Review Board (SBRB) to eliminate potential problems.

Mr. Nishimura proposed changes could be done with Standard Operating Procedures (SOP) for the Board to review.

3. *"WSDF shall be paid before completing any items required by the conditional approval of the Water Service Request."* The fee is paid and enforced before the customer does any work to lock in their allocation. This is a current problem with customers having their allocations and not placing their meters in for many years. An administration charge will be added by the Department to process the WSDF for the additional allocation request.

Item B. No Available Water - This section will be eliminated.

Part of the subdivision agreement will include a letter to the customer stating the meter must be dropped in when the subdivision is completed. Chair Dahilig suggested large subdivisions may be

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adjusted based on financial or environmental considerations. The reason the Department is requiring installation of the meter and the infrastructure is because nobody is paying for it. The depreciation will be a challenge to collect. A service charge can be assessed per meter for a development.

One suggestion discussed is to treat the meter as a phantom meter to be assessed. The customer does not have to drop the meter and dig it up later. A different set of numbers can be assigned to the meter.

Manager Craddick stressed if a meter is dropped in, the lateral is also already installed. A letter would be sent to the developer from the Department stating the meter must be put in to prevent the cost from rising.

The Department does not want to have developers put in wasteful infrastructure to adhere to for their project. The additional FRC fee is paid when the meter is in. For the big subdivisions, the developer gives the tank, well and transmission line which depreciates if nobody is paying for this. No charge is given if a meter does not go in. The Department has a mechanism of tracking the demand.

Mr. Nishimura suggested this section should be explained in the Findings.

Chair Dahilig will report to Chair Kaneshiro of the full Board to create a task group of the Rules Committee to work together with the Deputy County Attorney and staff. The task group will consist of Chair Dahilig, Randall Nishimura and Ray McCormick.

At 10:04 a.m. Chair Dahilig suspended the Rules Committee meeting to hear testimony.

Mr. Kamuela Cobb-Adams, County of Kaua'i Housing Director provided his testimony.

Mr. Cobb-Adams' goal in affordable housing is to decrease cost. All costs are going up and applauded the DOW for being responsible in keeping a quality water system going and to increase FRC fees.

Affordable housing receives subsidies through federal home grants, Community Development Block Grants (CDBG) and federal resources. Currently there are two affordable housing projects Lihu'e and Eleele. There is a benefit for affordable housing to go after funds and to gain water needs which will benefit the water system in the community. There is the potential for duplication of water lines or stronger source and storage for the whole water system. Affordable housing needs water for their projects which are lined up to go directly through the DOW. Mr. Cobb-Adams inquired if the Board has a credit system and if the Board receives federal funds.

Mr. Cobb-Adams met with Cody Lynn Hiya from Senator Inouye's office who is interested in supporting the affordable housing projects. Mayor Carvalho will meet with the Kaua'i legislators to support water projects which will go indirectly to support affordable housing.

Fixture unit pricing would directly impact affordable housing versus larger houses which use more water. Mr. Cobb-Adams is in favor of fixture unit pricing.

The Commission Support Clerk will forward a copy of the draft Rule for Part V to Mr. Cobb-Adams to red line for the Board's review.

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At 10:07 a.m. Chair Dahilig called the Rules Committee back to order.

Mr. Nishimura moved to receive and to defer the Draft Rule for Part V, Water System Development Fee dated November 23, 2012, 2:30 p.m., and Section III: WSDF Fee Schedule to the Finance Committee; seconded by Mr. McCormick, motioned carried with 3 Ayes.

Re: *Manager's Report No. 13-7 - Board Discussion and Possible Action on Part 2 Section IX of the Rules: Adjustment of Bills for Undetected Leaks and Unforeseen Damages, i. DOW Revised Proposed Changes on Part 2 Section IX of the Rules*

Mr. McCormick moved to defer *Manager's Report No. 13-7 - Part 2 Section IX of the Rules: Adjustment of Bills for Undetected Leaks and Unforeseen Damages, i. DOW Revised Proposed Changes on Part 2 Section IX of the Rules*; seconded by Mr. Nishimura, motioned carried with 3 Ayes.

With no further business, Chair Dahilig adjourned the Rules Committee Meeting at 10:10 a.m.

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