

# Committee Meetings

March 18, 2010

Board present: Chair Randall Nishimura, Ian Costa (10:08 am), Dee Crowell, Donald Fujimoto, Leland Kahawai (10:08 am), and Roy Oyama. Absent & excused: Raymond McCormick

Staff present: David Craddick, Paul Ganaden, Gregg Fujikawa, Keith Fujimoto, Bruce Inouye, Faith Shiramizu, and DOW Deputy County Attorney Andrea Suzuki and Board's Deputy County Attorney Amy Esaki. Absent & excused: William Eddy.

## **RULES COMMITTEE MEETING:**

Rules Committee Vice Chair Donald Fujimoto called the meeting to order at about 10:03 a.m.

### **Re: Committee Discussion and Possible Action on Various Proposed Rule Revisions**

Rules Vice Chair D. Fujimoto reported on the following:

#### **Proposed Rule Revision for Water Rates:**

We have submitted the April 15, 2010 public hearing notice to be published in The Garden Island on Monday, March 15, 2010. The public hearing will be held at 10:00 a.m. with Committee and Regular Meetings to follow.

A public hearing notice and the corrections to the proposed rule amendments (color coded) will be available for the public upon request.

*Mr. Leland Kahawai and Mr. Ian Costa were both present at the meeting at about 10:08 a.m. Rules Chair Costa presided over the rest of the Rules Committee Meeting.*

DOW Deputy County Attorney Andrea Suzuki discussed that the correction on the proposed rule amendments should go to public hearing to avoid any type of discrepancies.

Manager Craddick stated that the proposed rule amendments in the 1<sup>st</sup> public hearing was erroneous as the Department would have collected \$2.5 million instead of \$1.2 million, which was what the Board intended to do.

Manager Craddick discussed that these corrections to the proposed rule amendments were noted in the public hearing notice in the March 15, 2010 issue of The Garden Island newspaper. There was some discussion on making further changes in relation to our bond issue; however, no other changes could be made, unless another notice goes out and the public hearing is rescheduled.

Manager Craddick discussed that the boards of water supply have a separate section in the Hawaii Revised Statutes (HRS) and it states that when water departments do public hearings for water rates, a 20-day advanced notice is all that is required and not 30 days for other public

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hearings. However, both of our legal counsels recommended that we still go with the 30-day advanced notice.

Mr. Nishimura requested a recess. So granted.

Recess: 10:15 -10:30 am

On query by Mr. D. Fujimoto, Ms. Suzuki explained that we were in a time crunch to get this public hearing noticed so we could coincide with notification and concurrence of our proposed rule amendments with the Small Business Regulatory Review Board (SBRRB). We were initially informed that the SBRRB was meeting on a quarterly basis last year due to budget constraints. As far as we knew then was that their quarterly meetings were November, 2009, January, 2010, with their next meeting April, 2010. Based on these SBRRB quarterly meetings and to keep our timeline to get these rules approved on July 1, 2010, we rushed to get the public hearing notice published. However, unbeknownst to us, the SBRRB changed to monthly meetings after their January, 2010 meeting, as they found quarterly meetings too long and cumbersome.

Manager Craddick added that another rush for us to get these rules approved is that the proposed block changes needs to be conveyed to the Honolulu Board of Water Supply (HBWS), who does our billing. He added that we need to give HBWS ample time as they are also switching to an entirely new billing system and the staff would have just gotten training.

The secretary explained that she contacted the SBRRB staff and was notified that we would be able to email them the corrections to the proposed rule amendments earlier than norm. They would in turn email the corrections to their SBRRB members for a heads up and also they would notice our corrections to the proposed rule amendments on the SBRRB April 21, 2010 monthly meeting agenda. We could then have our public hearing and then email our minutes to the SBRRB in time for their April 21, 2010 meeting. The SBRRB was very accommodating to our tight timeline.

Mr. Nishimura stated that he recommended that we stay with the current proposal because the whole point about these block changes was to find out what the actual impact financially to the DOW. Although he disagrees with the proposed changes, he also recognized that it is easier to give back. Therefore, he recommended that we leave the proposed rule changes as is and go to public hearing to see what type of actual impacts there are. Then the Board could make changes accordingly, if needed, next fiscal year.

After much discussion, it was decided to leave the corrections to the proposed rule amendments as is and go to public hearing.

Mr. D. Fujimoto moved that we receive this report, as amended, and to move forward with our public hearing, seconded by Mr. Nishimura; by a unanimous vote, motion was carried.

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## **Proposed Rule Revision to Incorporate our Rules of Procedure into our Rules:**

At the February 18, 2010 Board Meeting, DOW Deputy County Attorney Andrea Suzuki has provided a working draft that will address incorporating Board procedures into the Board's Rules of Procedure and Reconsideration.

She submitted a revised working draft which had deleted the reference to the Kaua'i County Code. If there are any other items for inclusion, please inform Ms. Suzuki.

Mr. Nishimura moved that we received the proposed rule revisions to our Rules of Procedure and to incorporate it into our Rules, Part I and schedule for public hearing, seconded by Mr. Kahawai; by a unanimous vote, motion was carried.

Mr. Nishimura thanked Ms. Suzuki for her work to incorporate the Rules of Procedures into our Rules.

Ms. Suzuki reviewed her latest update and informed the Board of a few minor corrections that will be made:

1. Page 1, Part 1, No. 2: Cross out only County Code and not County Charter.
2. Section VI, No. 3: Add a comma between adoption and amendment.
3. Section IX, No. 2:
  - 1) There are two(2) 2a's but should be one 2a and one 2b.
  - 2) under 2b,i, 2. Accurate Record. Should be used and not sued.

Ms. Suzuki added that the following needed Board's input:

1. Section II-Meetings, No. 1, Meetings, No. 6: Reconsideration: The question was whether the Board wanted to have Reconsideration according to Robert's Rules of Order, which means that reconsideration can be made only at that specific Board Meeting that the agenda item is heard. Robert's Rules also have the ability to move to rescind or move to amend at the next meeting what was previously adopted.

The other option is if the Board wanted to have reconsideration like how the other Departments do it, which means you can also reconsider at the next Board Meeting.

Board's Deputy County Attorney Amy Esaki explained reconsideration is when the Board would want to revisit the issue and possibly take another vote; however, it would have to be someone from the prevailing side to make the motion so it can be revisited. She added that the addition of Reconsideration into our Rules was because we were challenged previously.

Mr. D. Fujimoto felt that Robert's Rules gave the Board the flexibility to reconsider at the present meeting and to amend or rescind at the next meeting. Ms. Suzuki added that the

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Rules also have a default rule in the beginning of the Rules that was not covered in these Rules will be covered by Robert's Rules.

On query by D. Fujimoto, Ms. Suzuki stated that it is possible to move to reconsider a recission only if the decision was negative. Also, that once you move to rescind, and the outcome is affirmative, you cannot reconsider. If it is brought up again, it would have to be as a separate agenda item.

On query by Ms. Suzuki, the consensus of the Board was to have the ability to reconsider at 2 meetings vs. only 1 meeting.

## 2. Section VII-Declaratory Rulings of the Board:

No. 5: Ms. Suzuki stated that this Paragraph No. 5 allows the opportunity to hear both sides before the Board makes a ruling. She added that it has already been past practice for the Board to hear both sides so this section just documents it.

No. 1: Ms. Suzuki added that this Paragraph No. 1 was added to give the Board the power to remedy/clarify certain situations.

## **Proposed Rule Revision to Incorporate Delegation of Authority from the Board to the Manager:**

In preparation of the passing of the legislative bill for the Board to delegate authority to sign vouchers to the Manager, proposed language that will also be included in Part 1, Rules of Practice & Procedure for the Board of Water Supply for the County of Kauai:

### For insertion under Part 1, Section III:

*4. As permitted by Hawaii Revised Statutes, the Board may delegate its administrative duties as it relates to waterworks, either by policy or by rule, to the acting Manager and Chief Engineer of the Department.*

Manager Craddick recommended that the Board include this rule in the rule package in case this bill does pass and if it does not, it can then be eliminated. He stated that by May, 2010, we would know if this legislative bill had passed or not.

There was some discussion on whether this rule revision was necessary or not and whether the rule should or should not include that this delegation of authority would be by rule or policy. Mr. Nishimura stated that he felt that it was important to keep 'by rule and policy' in the Rules to eliminate unnecessary misunderstanding between the Board and the Manager if their relationship goes bad.

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The Board decided that since this matter is dependent on the Legislature passing this bill, they would defer this proposed rule amendment for now.

Mr. Nishimura moved to receive the report and Ms. Suzuki to report back to the Rules Committee, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

**Re: Discussion on Financing of DOW's Required Infrastructure**

Manager Craddick reported that our Deputy County Attorney Andrea Suzuki researched the possibility of financing the installation of backflow preventers that will be a requirement for farmers that have qualified for our agriculture water rates. Her research has found that per the Constitution, it is illegal to use public monies to finance privately owned facilities.

It was added that if the Board wanted to discuss this matter further, it should be done in Executive Session.

Mr. Nishimura moved to receive this report and place on file, seconded by Mr. Oyama; by a unanimous vote; motion was carried.

The Rules Committee was duly adjourned at 11:44 a.m.

**FINANCE COMMITTEE MEETING:**

Finance Chair Roy Oyama called the meeting to order at about 11:45 a.m.

**Re: Claims Payable** (as of February 28, 2010):

WATER UTILITY FUND: .....	\$1,996,334.08
BOND FUND: .....	\$ 54,171.31
FRC FUND: .....	\$ -0-
STATE FUND: .....	\$ -0-
<b>TOTAL .....</b>	<b><u>\$2,050,505.39</u></b>

Mr. Nishimura recused himself from voting as he had a conflict of interest with one of the DOW payments.

Mr. Costa moved that the claims be approved for payment, seconded by Mr. Kahawai; by a unanimous vote; motion was carried.

**Re: Committee Discussion on the Proposed Budget for Fiscal Year 2010-11**

Finance Chair Oyama reported that the proposed Budget for Fiscal Year 2010-11 was submitted to the Board at this Board Meeting. It was also explained that:

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1. A separate Finance Committee Meeting will convene on a date of the Board's choice when the Board can meet to discuss the details of the proposed budget. The budget meeting will be held at the DOW's Micro Lab 2<sup>nd</sup> Floor Board Room.

All Board members are to attend the Finance Committee Meeting.

The secretary will work with the Board to finalize the separate Finance Committee Meeting to discuss the budget the week of April 19, 2010.

2. The final budget needs to be approved at the June 17, 2010 Board Meeting.
3. A resolution to reconcile the actual balances within the budget (a budget reconciliation resolution) needs to be approved at the Board's August 19, 2010 Board Meeting.

Mr. Nishimura moved to receive the proposed Budget for Fiscal year 2010-11 and to have Administration schedule a separate Finance Committee Meeting, seconded by Mr. Costa; motion was carried.

The Finance Committee was duly adjourned at about 11:53 a.m.

## **COMMITTEE OF THE WHOLE:**

Chairperson Nishimura called the Committee of the Whole Meeting to order at about 10:00 a.m.

## **Re: Board Discussion and Setting the Manager's 2010 Goals**

Chair Nishimura reported that as part of the Job Performance Evaluation process for Manager David R. Craddick, this matter is on this Committee Meeting Agenda to continue discussion and hopefully finalize the Board's goals for the Manager for 2010. Once the goals are finalized, it will be communicated to the Manager and Chief Engineer.

As directed at the February 18, 2010 meeting, Chair Nishimura met with Mr. Craddick and they were both in general agreement on the goals, timetables and measures. Specific areas of disagreement or concerns include the following:

- A. Mr. Craddick feels that the financial analysis and 5 year plan identified as Item 1C in the chart should be performed in-house as opposed to being contracted out. I prefer to have this item outsourced to free the fiscal side and if we use these numbers, the public can see that the reliance is based on a non-biased source.

Manager Craddick stated that with the information already done by the staff, he felt that he could do the financial study and save money for the Department.

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Mr. D. Fujimoto's concern that this is an important analysis that would show, among many other things, how we are paying our CIP projects; therefore, he felt that there is some validity to have an independent analysis rather than in-house as it would also give the Board more credibility as we go forward with water rate increases. He added that since the Department has the information already done by staff that would help to negotiate a lower price to hire a consultant.

On query by Mr. Kahawai, Manager Craddick stated that the water rate study encompasses a lot of work but most of it has been done, all that is needed is to add 2 more years to the study. Manager Craddick added that this study is a goal for next year as the proposed water rates is geared for 2012.

Chair Nishimura concurred with Manager Craddick and added that the consultant would still need to be hired this year.

- B. Mr. Craddick would like the standards identified in your chart as Item 3A to be updated every 12 months instead of every 6 months.

Chair Nishimura stated that he requested the update to be every 6 months based on Board members being appointed by calendar years and the Department works on fiscal years. Therefore, initially he would want the update every 6 months and if the Board so chooses can change it to be updated yearly.

Manager Craddick discussed that there is not enough info to do it twice a year but he could do estimates instead on a 6-month basis.

- C. Mr. Craddick would like our Inter-Agency Co-ordination Goal deadline, Item 5B to be deferred to April of 2011 instead of 2010. Item 5B states that "Ensure our water infrastructure is in place for County sponsored or supported Affordable Housing Development Projects. Chair Nishimura has no major objection to this as long as there is no water urgency for any of the pending Affordable Housing Projects.

Chair Nishimura stated that he wanted it this year so the Department is aware of what needs to be done prior to next fiscal year.

It was recommended that the Committee review the updated goals list, make any necessary revisions and send to the full Board for approval. It was further recommended that any major disagreements be withheld from Board approval, with the understanding that they are still a part of the overall goal package, to be resolved.

Mr. Costa moved to approve the goals, as amended, as per Chair's recommendations for Item A to outsource and hire a consultant & for Item C to be deferred to next year and to have Item B

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as stated to have a report every 6 months initially and to submit to the full Board for approval, seconded by Mr. Oyama.

Mr. D. Fujimoto added that Item C, the Inter-Agency Co-ordination Goal deadline, should be kept for this year as the County has a 6-year CIP Plan that needs to have interagency coordination. Mr. Crowell added that the County has a 6-year CIP plan but it depends on which projects get funded.

Mr. D. Fujimoto added that the County always had a 6-year CIP Plan which was initially done to submit to the Legislature to request State funds. However, now they use that plan to recognize priority projects.

Mr. D. Fujimoto added that it is most important that we work parallel with the County Housing Agency's affordable housing projects.

Mr. Costa added that when the Planning Department works on their 6-year CIP Plan, he will ensure that they work with the DOW.

Manager Craddick added that the ultimate goal is to have interagency coordination with all of our agency projects to save time and money for each agency.

Mr. Crowell moved that Item 5A include that we would communicate our CIP Plan with other County agencies so it can be coordinated with their 6-year CIP plans, seconded by Mr. Oyama.

Chair Nishimura stated that the language for 5A will be that "communicate our CIP Plan to the County Administration, to be submitted by April 15, 2010 and the plan will be transmitted to the Mayor's Office.

By a unanimous vote; the amended motion was carried. By a unanimous vote; the main motion was carried.

The Committee of the Whole Meeting was adjourned at about 12:20 p.m.

## **ADJOURNMENT:**

There being no other business, the Committee Meetings were duly adjourned at 12:20 p.m.

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