



BOARD OF WATER SUPPLY
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Board of Water Supply
Rules Committee

Minutes of September 2, 2004, Meeting

Held at the Kahului Shopping Center
65 West Kaahumanu Avenue, Unit 29
Kahului, Maui, Hawaii.

Present: Sally Raisbeck, Kenneth Okamura, Ralph Johansen, and Michele McLean (alternate)
Absent: Michael Victorino (alternate)

CALL TO ORDER by Sally Raisbeck at 11:10 a.m.

SCHEDULE: Sally will be away Sept. 10 to Sept. 29; Michele is leaving Sept. 9. Committee will meet September 9. If committee wants to meet Sept. 16 they may decide to on Sept 9. BWS meets on Sept. 21. Water Stakeholders Committee meets on Sept. 28. Committee will meet again on Sept. 30 at 11:00 a.m.

APPROVAL OF MINUTES: There were no minutes presented.

PUBLIC TESTIMONY: No members of the public were present.

UNFINISHED BUSINESS:

Continue review of Board functions in present Department Rules. Discussion. Focus on Chapter 106, Water Meter Issuance Rule for Upcountry Water System.

Sally presented a memo listing what the committee has done so far, and what questions remain to be answered, for review by the committee. She stated that she had previously misunderstood the "list number", thinking it was a fixed unique number assigned to an application, (like a "bakery number") but it is only a line number in one particular printing of the list. When the list changes because of additions or deletions that number changes. Apparently there is no tracking of applications that are removed from the list.

One question remaining is what other routes there are to get meters Upcountry, other than being on the list. Herb Chang has told Sally that people are still being given meters based on "detrimental reliance" on an ongoing basis, even though Chapter 106 says this will be done only for the 60-day period immediately following passage of Chapter 106. (16-106-). If this is true, then the rule must be changed to conform to the department's practice. Ralph commented on the confusion caused by not following the rule.

Another point about how the list is managed is that following passage of the Rule in 2002, names were put on the list based not on the date of their documentary proof, but on the date they brought that proof to the department following passage of the Rule.

Ken questioned whether those who came in were given meters rather than being placed on the list.

Michele questioned about an audit of the list. There was an audit of the first 50 names on the list, but we have no information about that.

Sally questions how many meters have been given since 2002, and on what basis? The Special Counsel has asked for a list of all meters given out since 1994.

Sally has asked for information from George, and asked for Herb Chang to come to this meeting.

Ralph and Michele discussed the meter reservation process. Should meter reservations be non-expiring?

Sally questions what the committee should do now? People feel their position on the list is an important economic matter. Can we come up with a fairer substitute for the rule? Can the department make all the information available to the public? The Real Property Tax information is available online in great detail. Ralph again lauds transparency, but quotes George as saying there are privacy issues about the applications. Ken thought the information should be available to the public.

Michele pointed out that our questions have put the department on the defensive, we need to make clear that past is past, but we need to know how things have been done so that we can come up with a rule that describes how things are done and fixes the glitches. And allows for special cases. "Take the current model and make it better." To do that we need to understand the current model.

Ken agrees, and wants us to explain to the department the reason for our wanting the various items of information.

Sally wants to know how many routes there are to get a meter Upcountry, and then it can be codified. It can only be fair if everyone knows what all the routes are to get a meter. Ralph points out that the confusion and lack of information create suspicion among the public.

Michele suggested that the rule codify the practice for those on the list getting meters. For any others, the director should present a report to the board to explain the basis of giving the meter. Ken expanded that to include any exceptions made by the Mayor.

Ralph said that the Committee should receive all information given to the County Council's Special Counsel. Ken wants a procedure that is open. Sally quotes Kent Hiranaga as asking what was done with the 200,000 gallons that were given out based on an expectation of water from Pookela Well, which is not yet online.

Sally questions whether meters should be given out based on expectation of water, not water in hand. Michele says that for practical purposes, there is a cushion, and taps will not run dry in the short term from issuing too many meters. Sally says that at present we have drought restrictions Upcountry at times, because of lack of storage Upcountry. Michele says in the short term its OK, though poor practice in the long term. Ralph points out that issuing the meters creates detrimental reliance concerns. Ken as a farmer mentions if there is a drought before Pookela comes online, the impact on farmers is great. Sally questions the impact of an additional 200,000 gallons of demand, on a system that historically needs restrictions of water use. Ken says there is a 50% chance of El Nino within the next 3 months.

Question for department: What would the impact be of 200,000 gallons extra demand, if Pookela is not online by next summer?

Suggestion for rule: meters given to people on the list can be reported after the fact, all other meters will be reported in advance to the board before issuing the meter. Ralph suggests criteria, Michele points out the complexity of reasons, difficult to codify. Ken says accountability will result from publicly disclosing in advance requests for meters that are not on the list.

Action item: Michele will call George. Michele will draft changes to the Rule, send a copy to Sally and Cathy.

Sally points out that we cannot deliberate by email, must discuss only at a posted meeting.

Michele had to leave.

Ralph mentions there is still confusion about who has the right to request a meter reservation.

Sally mentions there needs to be a section on processing requests that are NOT on the priority list. Need to mention that people on priority list ONLY get processed in priority order. Otherwise the director should come before the board. Ken adds, as the list is fulfilled should be reported to the board. Every month, director provide a list of all meters given to (a) applicants on the waiting list and (b) a presentation about any applications from those not on the list. Agenda item every month: Upcountry water meters approved or issued. Ralph includes, list in time to be placed on agenda materials.

Sally requests that Michele's revision be presented to the board at its September meeting.

ADJOURN: Meeting was adjourned at approximately 1:00 p.m.

Minutes were taken by Sally Raisbeck from the audiotape.