

On My Mind

5/29/09

It's been reported that one of the governor's legal counsels has "quit his post" and that his replacement has yet to be named. Excuse me? It's **automatic** that there will be a replacement? Since when? How many "special" legal counsels does the governor need, anyway? Wasn't there a time when the CNMI governor relied on the Attorney General's office to provide him with legal counsel?

One would hope that in today's poor economy, people would think twice before filling an empty slot - particularly when it is a specially-established slot, not one normally found on the organization charts. And particularly when it is such a high-priced slot to begin with.

An employment moratorium? Down-sizing through attrition? Obviously not in the governor's office.....

Downsizing by attrition is being practiced elsewhere in government, however, but with disastrous effect, as at CHC, where in recent months, several essential professional staff have departed and not been replaced. CHC, at present, has no nephrologist, despite the many diabetics on island; it has only one surgeon, it has insufficient staff for its in-house pharmacy, it is about to lose one of two doctors capable of treating cancer patients, it has no radiologist, - and there's bound to be more I don't even know about.

According to the coconut wireless, some of these departures can be directly tied to poor management and poor HR skills which resulted - at least in part - from a "reorganization" of the administration at CHC.

Maybe it's time to examine, once again, whether the CNMI should not get out of the health care business. Businesses in the private sector must also deal with politics within the office, but it doesn't generally occur on the macro level that apparently has tainted CHC.

For those who may have missed it, there was a meeting of Coastal Resource Management Agency Officials earlier this week. Main item on the agenda: the Marpi Clearing. It was called to address concerns about the CRMO's "convenient" withdrawal of its requirement that the Division of Public Lands submit an application for a major permit for the site. As was to be expected, little was resolved.

To begin with, the meeting was announced only in the previous Saturday's *Saipan Tribune* - the notice did not appear again in either paper either Monday or Tuesday, the date of the meeting. Asked why there wasn't more publicity, CRMO Director John Joyner said phone calls and e-mails had been used instead - the newspaper announcement was to meet the requirement that 72-hour notice be given for all such meetings.

Only a handful of "the public" attended, and while they were given an opportunity

to offer comments, it was clear that CRMO intended to stand pat on its decision not to require a permit application from DPL. For the record, on February 1, 2008, CRM had said a permit application would be required. The letter informing DPL of CRMO's change of position is dated May 15, 2009. (Clearing of the land began sometime in March of 2009). The telling section in that brief two-paragraph letter reads: *"Nevertheless, One Start Agencies individually and collectively critically assessed the potential threats posed by the proposed project and then incorporated adequate and sufficient pro-environmental conditions in an "Amended One Start Permit" issued to DPL. [Date of this amended order not known.] The controls in the amended permit for monitoring the project amply reduce the threats of the project and thereby satisfy CRMO regulatory concerns. Therefore, CRM hereby informs you that an application for a CRM permit in this instance is not required."*

A protracted discussion led by Representative Tina Sablan of the need to hold a public hearing on the clearing, and possibly stopping it, even though it is now said to be 80% completed, did not change CRMO's position that under its regulations no public hearing was required.

CRM Agency Officials from the Commonwealth Utilities Corporation, the Department of Natural Resources, the Historic Preservation Office, Public Works, the Division of Environmental Quality and the Division of Fish and Wildlife were all in attendance..

The State of the Commonwealth Address was going to be conducted, it was said, under tight security. Yet no mention was made in the press reports I've seen that security was excessive, or unusual. Nor was it ever explained why it was felt that tight security was needed in the first place. Who was the governor afraid of? Did he think that retirees might demonstrate in response to his position on the on-going law suit or on non-payment of the government's share to the Retirement Fund? Did he think non-resident workers might picket, due to his stance on federalization of immigration? Did he really think crowds would turn violent, threaten his security? That other gubernatorial candidates might set up a booth on near-by grounds? That terrorists might show up? or?

Others with better memories than mine say the SOCA was given at the legislature last year as well, apparently because legislators felt that the report should be made on THEIR turf, since the Constitution states that the governor must report to THEM. This year it happened again.

One would have hoped that the legislators, recognizing their constituents' rights to also hear the governor's report, would have returned the function to the multi-purpose center in Susupe where it had been held for several years. Apparently that did not occur to them.

In the meantime, most people stayed home. There weren't going to be any seats anyway.

What a pity!

The May issue of the *Commonwealth Register* is out. In addition to the routine Emergency Regulation regarding the Anatahan volcano, this volume contains emergency regulations for the Departments of Public Health, Commonwealth Ports Authority and Department of Public Works, Building Safety Division as well.

DPH's have to do with amendments to its fee structure, as, largely, would appear to be the case with the CPA's emergency regulations. In the case of PW's Building Safety Division, the emergency regulations would appear to have been prompted in part by the need to meet national standards required for eligibility for federal funding under the American Recovery and Renewal Act of 2009.

The Building Safety Division's submittal is an outstanding model of what such proposed changes should look like: changes in text are clearly indicated by cross-outs and bolded additions throughout, making it very easy to identify what is being added, deleted, or otherwise modified in the regulations.

Most significant is the adoption of the International Building Code, its energy code provisions, and the Tropical Energy Code and its energy code provisions.

Emergency regulations take effect immediately, and remain in effect for 120 days.

The Building Safety Division has also filed its emergency regulations as proposed regulations, thus opening up a 30-day comment period on the changes being proposed.

The Ports Authority has done the same thing - filed its emergency regulations as proposed regulations, opening up a 30-day comment period - for the second time. The first time, the emergency regulations expired before they could also be filed as proposed regulations, and thus it was necessary to begin again.

Haidee Eugenio's story in Friday's *Trib* fully covers the proposed rules in this issue submitted by the Department of Finance (intended to allow video lotteries in the CNMI...)

Also submitting proposed regulations was the Department of Labor for the purpose of broadening the requirement to post job vacancies, advancing the phase out of the moratorium on hiring of foreign national workers to 7/1/09, simplifying the provisions for part-time employment, simplifying the regs re payroll deductions in light of the minimum wage increase, making minor adjustments in fees and providing guidelines for judicial review of agency actions.

Lastly, there is the 12-page-long inevitable Executive Order (the 4th so far this year) declaring a state of disaster emergency for CUC's "imminent generation and other failure and the need to provide immediate reliable power during repairs."

Comments on the proposed rules and regulations should be submitted within 30 days of their issuance in the *Register*.

Short takes:

It's also a pity that the Republicans aren't, apparently, brave enough to hold a

closed primary. An open primary encourages all sorts of political game-playing, the prevailing one being, as I understand it, that every one is supposed to vote for the weaker candidate, so that there will be less competition for the remaining ones. In a closed primary, presumably the stronger candidate would win, offering voters a better choice, and the remaining candidates some real competition. Of course, it's still open to question whether either pair will keep their word not to run as independent if they lose.....

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With all the fuss about the Marpi clearing, CRMO's full page notice of applications for permits appearing in the *Marianas Variety* this past Monday drew little attention - even though the notice, required monthly, in this case covered applications dating all the way back to the beginning of the year. Tut, Tut!