

On My Mind  
5/15/09

Last month's *Commonwealth Register* included not one, but four "Declarations of a State of Disaster Emergency" dealing with the "Commonwealth Utilities Corporation's Imminent Generation and Other Failures and the Need to Provide Immediate Reliable Powers During Repairs." Two of the declarations are dated 12/31/08, one is dated 3/1/09, and one is dated 3/31/09.

A quick reading shows that they are all much alike. It is only upon very close reading that differences emerge in the descriptions of what the problems are that call for the declaration of the emergency. It would also appear, from a quick reading (I am not sufficiently computer-literate to know how to compare all four PDF versions on my computer except line-by-line, word-for-word - an effort I was not willing to take the time to make), that the "directives" issued to deal with the emergency are identical on all four declarations.

One could presumably get a pretty good description of what is happening at CUC's power plants by reading the emergency declarations. It's too bad that in this case, with four issued all at once, some protocol wasn't used to indicate the changes from one declaration to the next, so that finding the differences wouldn't be so difficult.

Does the administration observe open government in spirit? Not hardly!

\*\*\*

Ironically, the judicial branch does operate in accordance with the spirit of open government. Only rarely - and then for good cause - are its proceedings not open to the public. Unfortunately, the public doesn't generally seem all that interested. Hearings have been held for the past several weeks on the suit by the CNMI Retirement Fund against the executive branch for its failure to make required payments to the Retirement Fund on behalf of its members. Some retirees have been steadfast in their attendance. The vast majority - for whatever reason - have chosen not to attend. As have the media (chosen not to attend, that is) - for whatever reason....

Yesterday, Friday (this being written on Saturday), Judge Govendo heard closing arguments as to whether Public Law 15-15, which suspended government payments to the Retirement Fund from March of '06 through the end of fiscal year '07, was constitutional.

Because the government failed in filing a response to the original suit, the court has already declared the government at fault for not making the required payments. Two issues remained: how much was government required to pay to the Retirement Fund, and was the law itself unconstitutional.

There was considerable discussion as to where the moneys to make the required payments would come from - the judge was apparently seeking input from both sides as to how that could be accomplished least painfully. The question of whether the judge should even hand down a ruling also arose, due to a last minute attempt by the adminis-

tration to have the issue resolved by mediation rather than a court decision.

Government attorney Anthony Welch, in fact, warned Judge Govendo that if the judge handed down a decision, rather than turning the case over to mediation, it would have "large scale ramifications and they will be immediate," in addition to promising that the decision would be immediately appealed.

Retirement Fund attorney Viola Alepuyo pointed out that settlement negotiations had always been an option, but that government had shown bad faith in the past, making it necessary to put stronger measures in place to assure a satisfactory government response.

In concluding, Judge Govendo announced that he would wait until the completion of the second part of the hearings, expected in mid-June, and write a single decision covering both issues. He added that he was seriously thinking of ordering the statutorily-mandated percentages of both the hotel and beverage tax to be turned over to the Retirement Fund beginning July 1, 2009.

\*\*\*

Short takes:

Should anyone try to take credit for the delay in implementation of the federalization of immigration in the CNMI, it might behoove him or her to note that the Department of Homeland Security postponed the take-over, not because it sympathized with the CNMI's position, but because the Department itself was clearly not ready to implement the change.

\*

For those interested, the coconut wireless has it that the veterans, who wrote at length in the Saipan Tribune about their unsuccessful attempts to obtain a copy of the filming of the fireside chats that took place during the 60<sup>th</sup> reunion, have since received a copy.

\*

Would it be fair to say that if one has to make use of a Freedom of Information Act to obtain information from a given agency, that agency is not operating in the spirit of open government?

\*

A wonderful - and hopefully unintentional - example of lack of the spirit of open government is the ad being run in the paper, "Notice of Destruction of Vessels." It gives no contact information except the name of one individual (i.e., no phone number, e-mail address, snail mail address, fax number....) and, despite two mentions of 30 days hence, no date as to when that 30-day period either starts or finishes. Way to go.....

\*

Anyone interested in attending the Pacific Island Energy Conference coming up June 22-25 this year on Saipan should be sure to register in advance. Even though attendance is free, space is limited, and pre-registering will assure a seat at conference sessions. For more information, and to register, go to <

<http://www.regonline.com/builder/site/Default.aspx?eventid=695194> >.

\*

Radical suggestion: when the new restroom facility at Micro Beach is ready for use, contract out its upkeep and maintenance, letting the contractor charge \$.25 per use to cover his/her costs and salary. An even more radical idea would have been to make it a locked single-use facility (to keep the interior secure) with an entry charge of \$.25, though I guess it's too late to do that now. I've seen both types in foreign countries and the restrooms stay clean and graffiti-free. There's no reason the same approach couldn't be used here.

\*

A fairly large film crew, complete with its own generators and porta-potties, has just finished sitting on the beach next to the Tanapag pala pala for nearly a week to make a Japanese beer commercial. During that time, locals could not make use of the pala pala or the immediate surrounding area. The crew allegedly paid the Department of Public Lands for a filming permit. Was there any quid pro quo for the Tanapag villagers? Not that I am aware of. And where did the money paid to DPL go, anyway? Maybe this is something the legislature should look into - both in terms of the sufficiency of the permit fee, and in terms of benefit to the affected community?

\*

Let us hope that legislative concern re the new zoning administrator will not interfere with the processing of his contract. The position was announced. The applications were reviewed, and a successor duly selected. To complain after the fact is worse than micro-management. It is inappropriate, a violation of the system of checks and balances among the branches of government.