

On My Mind
10/01/10

SHUTDOWN! Now what? With the House and Senate both playing politics, the administration totally lacking in meaningful leadership, and the Constitutional amendment that brought this situation about offering no help, who defines what happens next, or when, or how? Whose responsibility is it? Within what time frame? Under what conditions?

It would seem that there is no guidance anywhere!

In disputes, the temptation is to turn to the courts. But who would bring suit? What would the charges be? And how long would it take to get it all resolved?

There is another solution when disputes occur: to turn to mediation or arbitration, bringing in a disinterested third party to resolve the differences. But that too, has hurdles. How would an impartial third party - agreeable to all contestants - be found? Could a court issue a "request for proposal"? What rules would the negotiator follow? How would s/he get paid? Can a court order that settlement negotiations take place without violating separation of powers? Should the administration be included in the proceedings, so that whatever comes of the dispute resolution doesn't then get vetoed by the governor?

Is there a role here for the Legislative Bureau? Or it is not viewed as impartial?

As an abstract problem in the conduct of government, the present dilemma certainly is fascinating! But as a real "bread and butter" issue (or, locally, a "spam and rice" issue), it is more than a little scary, to say the least.

Whether abstract or real, the fact remains that the amendment is incomplete. It needs to provide for resolution, should no budget pass. Let us hope that members of the legislature take the lesson to heart, and come up with an amendment to the amendment that will provide better response to the situation than is now available.

There's been no statement from the legislature as to how it will deal with the shut-down. Despite rumors to the contrary, Angel Demapan, the governor's press secretary, has said that the legislators will not get back their salaries, if, as and when there's enough money in the General Fund. Like other government employees who won't get paid, their salaries are gone forever. Nor may the legislature declare some of its members essential, so that they can work on the budget. According to Demapan, the

Attorney General has already looked at this question, and declared that nothing in the constitutional amendment supports such a decision. Nor is it true, as some have claimed, that legislators can draw down their entire salary at once, and that the payless paydays therefore won't affect them. Demapan said they get paid on a bi-weekly basis, just like everyone else.

Though members of the legislature will not get paid, it is not clear whether they will still have access to discretionary funds, even though the Constitutional amendment states that no money be drawn from the General Fund - except for the delivery of services essential to health, safety and welfare and the protection of property. Suspiciously enough, the supposed looming lack of funding did not appear to have been a strong enough motive to persuade the members of the two houses, the opposing parties, to settle their differences before the cut-off occurred.

On the other hand, the Legislative Bureau is continuing to function.

So what can be done about the lack of a balanced budget? In more lawless times, voters might have rounded up the members of the legislature, and the administration, and held them hostage in their respective offices - not allowing them to leave, not allowing visitors, limiting access to food and drink (and in today's age, not allowing them access to cell phones, computers, i-pods, i-pads, and the like) until they came up with an acceptable solution. In these more lawful times, it seems it is the victims who are being held hostage.

Relatively speaking, though, the number of victims would seem rather small. For a work force allegedly numbering approximately 6,000 people, that only some 1200-1400 people - or only about one-fifth - will not be working doesn't really amount to that much of a shut-down.

Is there an easy way to change the actors in this melodrama? It would seem not. Members of the legislature can only be ousted by being recalled - but according to the CNMI Constitution, recalls must wait until the next regularly scheduled election - unless special elections are provided by law - and it is highly unlikely that the legislature would schedule a special election for recall of its own members. See Article IX, Section 3. Since this section talks about "elected officials," seems it could also apply to the governor.

The Constitution provides for impeachment of the governor at the initiation of the house of representatives. It requires a two-thirds vote of its members. See Article II, Section 8. The grounds for impeachment are treason, commission of a felony, corruption

or neglect of duty. See Article III, Section 19.

The governor's functions can be taken over by the Lt. governor if it is found that the governor is "unable to discharge the duties of the office by reason of physical or mental disability." See Article III, Section 8.

The question would be whether the governor's attitude regarding the budget, his long reach into even the private sector to impose his political biases and personal prejudices, his liberal use of his "emergency powers," etc., etc., constitute "mental disability."

It would appear that the only hope lies in finding proof of so serious a violation of federal law - with witnesses willing to back it up - that the feds could not afford to ignore it - not a very hopeful scenario.

Or, to follow the island custom of hunkering down until the storm passes - and to pray that the damage isn't too severe, isn't permanent.

Assuming it is still in operation, the Zoning Board will hold public hearings on three permit applications during its regular monthly board meeting on October 12 at 6:00 p.m. at its office in the JoeTen Dandan building. One is for the operation of a restaurant just south of the newly-constructed Buddhist Temple in Marpi. The area is currently zoned rural. Another is for the construction of staff housing at the intersection of Beach Road and Quartermaster Road on the lot where the new Sasha building and Turtle Dive Shop have just been built. The area is currently zoned "Beach Road." The third is for additional parking on the east and west sides of Bougainvillea Avenue at the TSL building in Garapan. The area is currently zoned "Tourist Road."

Comments may be submitted in person at the hearing, in writing via e-mail to <staff@zoning.gov.mp>, via snail mail at Caller Box 10007, Saipan, MP, or delivered in person to the Zoning Office on the 2nd floor of the JoeTen building in Dandan. The contact point for further information is Douglas Wyatt, Zoning Board Administrator, at 234-9661.

Short takes:

Corrections: (1) the film, "Trash," to be shown at 6:30 p.m. tonight at American Memorial Park is 77 minutes long, not 20, as previously published. (2) Expenses (transportation, housing, food) for the athletic team that was in Australia last week was 100% funded by Oceania Athletics.

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To those people wishing to donate non-perishable food items such as canned goods to people affected by the government shut-down, call Ed Probst at 287-783, or e-mail him

at < edpropst@rocketmail.com >.

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Elections are a month away. Three initiatives to amend the CNMI Constitution will be on the ballot. Though the Election Commission is charged with conducting an education program on the initiatives, to date not a single word has appeared on any one of the three. Even should such information now appear, could the results of the vote on those initiatives be invalidated because sufficient information wasn't available on a timely basis?