

**SANGGUNIANG PANLUNGSOD
GENERAL SANTOS CITY**

COMMITTEE REPORT NO. 17-386

Submitted by the **COMMITTEE ON PUBLIC UTILITIES**

Date of Hearing: JULY 15, 2015 & AUGUST 19, 2015

Re: SPPR NO. 2015-0944

RECOMMENDING FURTHER STUDY & CONDUCT OF ANOTHER COMMITTEE HEARING

Sponsor: City Councilor Dominador S. Lagare III

MADAM PRESIDENT:

The Committee on Public Utilities, to which was referred the following:

TITLE	RECOMMENDATION
SPPO NO. 2013-0944: AN ORDINANCE PRESCRIBING THE GUIDELINES IN THE OPERATION OF RURAL WATERWORKS AND SANITATION ASSOCIATIONS (RWSAs) IN GENERAL SANTOS CITY.	FOR FURTHER REVIEW/ FOR ANOTHER COMMITTEE HEARING

has considered the same and has the honor to report it back to the August Body with the foregoing recommendation.

Respectfully submitted:

DOMINADOR S. LAGARE III
City Councilor & Chairperson



MINUTES OF THE COMMITTEE HEARING OF THE COMMITTEE ON PUBLIC UTILITIES OF THE 17TH SANGGUNIANG PANLUNGSOD, CITY OF GENERAL SANTOS

July 15, 2015, Wednesday
10:45 A.M. to 11:37 A.M.

City Vice Mayor's Conference Room
2/F Legislative Building, City Hall Drive, General Santos City

CITY COUNCILORS PRESENT: City Councilor Dominador S. Lagare III (Chairperson); City Councilor Arturo C. Cloma (Member)

GUESTS/RESOURCE PERSONS: *Please refer to the attached attendance sheet.*

AGENDUM:

SPPO NO. 2013-0944: AN ORDINANCE PRESCRIBING THE GUIDELINES IN THE OPERATION OF RURAL WATERWORKS AND SANITATION ASSOCIATIONS (RWSAs) IN GENERAL SANTOS CITY.

The committee chairperson, Honorable City Councilor Dominador S. Lagare III, called the hearing to order, followed by a short prayer led by Mr. Castañeda. After acknowledging the presence of the attendees, the chair informed that Councilor Cloma will be attending this committee hearing but is still having another hearing downstairs.

At this point, City Councilor Lagare disclosed that the provisions of this ordinance were already discussed but the passage of which in the plenary was hindered by the legal question raised by Atty. Taniegra of the City Legal Office on certain provisions during the first hearing. It was accordingly the opinion of Atty. Taniegra that Sections 5 to 11 violate the right of the associations to have their own policy. Likewise, when he solicited the opinion of the Securities and Exchange Commission as to whether the city can have a pro-forma by-laws for the RWSAs to follow, it was the view of SEC that the same is not allowed and that it will no longer accept registration of RWSAs as it is accordingly the LWUA that registers them. When he inquired from the LWUA, he was told that they don't register as it is not within their authority. However, Mr. Castañeda informed that out of 156 RWSAs, one was registered with the LWUA and he has a copy of its registration.

On the other hand, Mr. Danilo Canencia of the City Health Office purported that perhaps there might be miscommunication on the issue. The LWUA will not register as to association but as to RWSA project, they will register. In the same manner, SEC will not register as RWSA project but will surely register associations.

Engr. Arn B. Gellagarin of General Santos City Water District suggested validating the information why SEC refuses to register RWS Associations, in which the chair said that a letter seeking for clarification was sent to the Securities and Exchange Commission last year but until now there was no reply.

Previously, RWSAs are registered in three agencies, namely: CDA, DOLE, and SEC, Mr. Castañeda of Integrated Barangay Affairs shared. Registration with SEC is needed for an association to have legal identity which is required by the Bureau of Internal Revenue for the

authority to print receipts and for the application of Business Permit. However, almost 70% of the RWSAs were not registered with SEC, DOLE or CDA. Lately, he discovered that SEC was using the pro-forma by-laws also used by homeowners associations, which created confusion in the interpretation of the by-laws that is not anchored on their actual operation. There was accordingly a proposed by-laws from LWUA to be followed by the RWSAs and that is supposed to be incorporated in this ordinance. He concluded that as suggested by Atty. Clarin, there should be an ordinance to govern the RWSAs.

Meanwhile, City Councilor Lagare manifested that this has been the third hearing wherein the City Legal Office was invited to clarify the question but unfortunately, there was no representative coming from said office, which led to the delay in the passage of this proposed ordinance. Considering that only few out of the 156 RWSAs do not have cases, it is imperative to pass this ordinance the soonest. Although there is an executive order governing RWSAs, however, it is a bit ambiguous because even the City Legal Office was telling that the city has no authority over RWSAs. He was then contemplating of deleting the provisions being questioned and inserting additional provisions on how to regulate RWSAs with stipulation of requirements, such as submitting annual reports, recognizing the authority of the barangay over the RWSAs, securing business permits, etc. There is also a need for the RWSAs to form into an association.

As to the inquiry whether these RWSAs have business permit, Mr. Castañeda replied in the affirmative explaining that although RWSAs are nonprofit associations, they are required to secure business permit. With such information, Councilor Lagare was baffled why the executive was saying that they have no control over RWSAs when in fact they issued business permit to them. He added that Presidential Decree 198 declared a national policy favoring local operation and control of water systems.

Mr. Canencia informed that since the start of RWSAs' operation, their office is in-charge in the surveillance of the quality or potability of water. He shared that in Region XI, RWSAs were under one federation. The chair said that the same was captured in the proposed ordinance specifically under Section 12.

Mr. Castañeda suggested to incorporate in the ordinance that there should be separate guidelines in the conduct of election and that the election should not be conducted during general assembly.

At this juncture, the chair acknowledged the presence of City Councilor Cloma. He then apprised the latter of what has been previously discussed and further solicited his opinion on how to go about with the provision being questioned by the City Legal Office.

City Councilor Cloma commented that Section 11 is only a reiteration of legal requirements because first and foremost, corporate bodies are governed by the Board of Directors and the executive officers are in-charge of the implementation. However, in the usual practice, the role of the Board of Directors was disregarded when it is supposed to be the most powerful body in every corporation. What most corporations usually do in order to avoid conflicts between the board and the executive officers is to let the executive officers become automatic members of the board so that they can participate in the formulation of policies. He imparted that he encountered a case with the same picture among RWSAs nowadays. He understood that there is a law that provides for the minimum requirements for RWSAs and he will look for a copy of which in his file. The by-laws should be approved by the LWUA as the authorized agency to resolve conflicts with the RWSAs and it is the LWUA that has exclusive jurisdiction over these conflicts.

When asked by City Councilor Cloma if the Water District is amenable to this setup of RWSAs, Engr. Gellangarin stated that the General Santos City Water District had lost its franchise to supply exclusively the water supply in the city by virtue of a court decision. He explained that they will not enter an area if there is no request for installation of water utilities. He cited the case of Littanville where there was a conflict on the RWSA management which resulted to some residents opting to request the Water District for installation and that they asked the assistance of the barangay for that matter.

City Councilor Cloma admitted that the members of the City Council have some reservations in the operation of RWSAs as he heard reports on the presence of coliform or *E. coli* in some areas in the city although that is yet to be verified. He understood the predicament allowing the operation of RWSAs because of affordability of potable water supply but was worried on the consequential cost which might be higher if an epidemic strikes. He clarified that he does not insinuate to get rid of these RWSAs because this is an alternative but there has to be regulatory provisions in the operation of RWSAs. Mr. Canencia added that there are a lot of things to consider in the testing of water sample.

Further deliberations ensued and with the suggestion of City Councilor Cloma to just defer the approval of this ordinance and revisit the provisions, City Councilor Lagare then ruled this resolution deferred for further review. Another committee hearing will be conducted on August 5, 2015 to finalize this ordinance with hope that the City Legal Officer or his representative will be present by then.

**DEFERRED/
FOR FURTHER REVIEW/
FOR ANOTHER COMMITTEE HEARING**

There being no more matter to discuss, the chair declared the committee hearing adjourned at 11:37 o'clock in the morning.

COMMITTEE HEARING - ADJOURNED

Prepared by:

INOCENCIA J. TUMBAGA
Stenographic Reporter III

Edited by:

JANET B. ZABALA
Stenographic Reporter III

Noted by:

LOLITA P. PEDRO
Division Chief, Journal & Minutes

ATTESTED:

DOMINADOR S. LAGARE III
City Councilor & Chairperson



MINUTES OF THE COMMITTEE HEARING OF THE COMMITTEE ON PUBLIC UTILITIES OF THE 17TH SANGGUNIANG PANLUNGSOD OF THE CITY OF GENERAL SANTOS

August 19, 2015, Wednesday
10:21 A.M. – 12:15 P.M.

City Vice Mayor's Conference Room, 2/F Legislative Building
Roxas Avenue corner City Hall Drive, General Santos City

COUNCILORS PRESENT: HONORABLE DOMINADOR S. LAGARE III (Chairperson);
HONORABLE SHANDEE THERESA O. LLIDO-PESTAÑO (Member)

GUESTS/RESOURCE PERSONS: *(SEE ATTACHED ATTENDANCE SHEET.)*

AGENDUM:

SPPO 2013-0944: AN ORDINANCE PRESCRIBING THE GUIDELINES IN THE OPERATION OF RURAL WATERWORKS AND SANITATION ASSOCIATIONS (RWSAs) IN GENERAL SANTOS CITY.

The committee hearing was called to order by the Honorable City Councilor Dominador S. Lagare III. After acknowledging everyone present, the chair informed that City Councilor Rosalita T. Nuñez was attending a meeting regarding health while City Councilor Shandee Theresa O. Llido-Pestaño will be coming.

Councilor Lagare informed that said ordinance was not pushed through last hearing because based on the opinion raised by the City Legal Office, Sections 5 to 12 except Section 7-d, Advisory Council, already encroached the rights of the members of the association, therefore, it was advised by said office to delete those sections mentioned. However, with the deletion of such sections, the committee finds the ordinance futile as the city cannot manage the Rural Waterworks with such kind of ordinance. Fortunately, with the research conducted by the Integrated Barangay Affairs (IBA) headed by Mr. Castañeda, it was learned that the Local Water Utilities Administration (LWUA) has a pro-forma system in accrediting members of RWSA in which only one was accredited in General Santos City.

When recognized, Mr. Eduardo Castañeda of IBA informed that they came up with the decision to include the recommended by-laws from LWUA wherein there are three items to be considered if ever the ordinance will be pushed through, such as: 1.) Articles of Incorporation; 2.) Constitution and By-Laws; and 3.) Election Guidelines regarding RWSA. He added that the proposed provisions of the ordinance are already incorporated in the by-laws of the LWUA except for the area which was changed from 25 to 74 square meters as required by the Department of Interior and Local Government (DILG) and also the distance between waterworks from 500 to 1,000 meters which will apply to the new RWSAs. The donation of the lot for the waterworks should also be perfected. He clarified that what was given to the association is just the authority to operate and not the property itself.

Councilor Lagare manifested to put in one of the whereases that the city based on record did not donate anything to the association but rather only authorize them to operate the waterworks. He clarified that under the Penalty Clause, on the 4th offense, the barangay or the city will take over the operation in case the concerned association will not comply.

The chair asked the representative from the Department of Public Works and Highways (DPWH) to furnish the committee the listing of waterworks that have no deed of donation from the city government so that the city may execute a deed of donation for that purpose.

Thereafter, the chair decided to discuss the ordinance by section. The following amendments were introduced:

- On the first whereas, the word "**owning,**" was deleted.
- The phrase "Series of 2013" was changed to "**Series of 2015**"
- As manifested by the chair, the authors would be **Honorable Rosalita T. Nuñez and Honorable Dominador S. Lagare III** and all the **city councilors present during the series of hearings** on this matter will be included as the **sponsors**.

Councilor Lagare clarified that the Local Water Utilities Administration (LWUA) is mandated to accredit all waterworks.

On Section 5, the phrase "**required as provided by the rules and regulations of the Local Water Utilities Administration (LWUA)**" was inserted after the word "duly" and the phrase "*registered with the Securities and Exchange Commission (SEC)*" was deleted. The chair ruled the proposed amendment approved on committee level, subject to style. However, after some deliberation, the body decided to replace Section 5, to read as: **REQUIREMENTS OF RWSA OPERATION- The following requirements shall be complied by the RWSA in the operation of its water system:**

- 1. Certification from Local Water Utilities Administration (LWUA) as required by law**
- 2. Barangay Certification of accreditation of the RWSA**
- 3. Business Permit of RWSA from the city government**
- 4. Sanitary Permit to operate of RWSA from General Santos City Health Office**

The above amendment was ruled by the chair as approved on committee level, subject to style.

The whole **Section 6**, General Guidelines for RWSAS, was **deleted**.

On **Section 7**, the words "RWSA Composition" were replaced with "**Advisory Council**". The paragraphs, from 7-a to 7-c.3, were deleted as the same are already reflected in the Articles of Incorporation. The new Section 7-a will become "Advisory Council".

On **Section 8-c**, the words "*water sampling is conducted periodically per PD 856 Chapter II. Expenses shall be borne by RWSA*" was **deleted** and replaced with "**water distribution should conform to the Philippine National Standard for drinking water**". The amendment was approved on committee level, subject to style.

Section 9, letter b and c, were **amended**, to read as:

- b) Each water system shall, upon construction, be turned over by the national government to the barangay council which shall likewise turn over the **management of the** project to one organized RWSA thru a resolution. The City Government, however, should continue to provide technical assistance to the community even after the completion and turnover of the water facility through the City Mayor's Office-Integrated Barangay Affairs (CMO-**IBA**).
- c) A Core of Trainers from the Education and Training Committee shall handle all Barangay-wide training activities, to directly coordinate with the City Mayor Office-**Integrated** Barangay Affairs (CMO-**IBA**) for technical assistance.

Section 10, Settlement of Disputes, was **deleted** considering that LWUA has its own guidelines and the association has its own internal management of disputes.

Section 11, Financial Policies, was likewise **deleted** considering that the management of the waterworks will be turned over to the RWSA which has its own by-laws and as originally suggested by the City Legal Office.

RECESS: 11:27 a.m.

RESUMED: 11:30 a.m.

Meanwhile, Mr. Castañeda proposed to have uniform tariff in all RWSAs inasmuch as some RWSAs can hardly cope with the maintenance expenses. Councilor Lagare remarked that the cost of electricity is fluctuating as well as the cost of operation and if a fixed tariff will be provided in the ordinance, there might be a problem on the adjustments later on. Nevertheless, the committee will make a study on how to go about having a tariff for RWSAs.

At this point, the chair acknowledged the arrival of City Councilor Shandee Theresa O. Lido-Pestaño.

RECESS: 11:33 a.m.

RESUMED: 11:40 a.m.

Section 12. Function of RWSA Federation - **No amendment.**

Under **Section 13**, General Guidelines for Implementing Agencies, the following amendments were included:

- The phrase ***rainwater collector and spring development*** will be inserted after the word "wells", which shall now be read as (subject to style): *In the identification of sites for construction of deep wells/rainwater collector/spring development, the following guidelines shall be observed:*
- On letter **a**, the acronym IBAD was changed to **IBA**. It was further amended that instead of putting the minimum number of square meters, it will be subject to the required standards of the concerned agencies. Letter a shall now be read as: ***a) Must be jointly undertaken by DPWH, CENRO/DENR, GSCWD, CMO-IBA, CEO, DOH/CHO, subject to the required standards of the concerned agencies; (subject to style)***
- Letter **b**, the acronym BAD was changed to **IBA**. Also, a clearance from the **City Engineer's Office** was included, to look into the expansion of pipes. Letter b shall now be read as: ***b) A clearance from CENRO/DENR - Environmental Clearance; CMO-IBA - Locational Clearance; CHO - Sanitary Permit for occupancy and CEO - For the installation of pipes, shall be secured first before any construction or expansion of the water project;***
- On letter **g**, 500-meter was changed to **1000-meter**.

As to the required area stated in Section 13-a, Mr. Danilo Canencia of the City Health Office emphasized that the water supply coming from improved spring or spring development program should have wider area, not only 74 square meters, especially if the site is surrounded by houses in which contaminants may be introduced over the facility.

On Section 14, letter c, Training and Technical Assistance, number "**4. Financial Management**" will be added, as suggested by Engr. Alolod of the General Santos City Water District.

Section 15. Technical Assistance to Non-Organized RWSAs. **No amendment**

Additional Section for the Penalty Clause was inserted, subject to style, to read as:

Section 16. Penalty Clause. In violation of the above sections, the offenders shall suffer the following:

First Offense- Reprimand by the Integrated Barangay Affairs (IBA);

Second Offense- A fine of Three Thousand (P3,000.00) pesos and Training of the officers of the association to be conducted by the Integrated Barangay Affairs;

Third Offense-A fine of Five Thousand (P5,000.00) pesos and the suspension of the RWSA Officers;

Fourth Offense- Closure of the RWSA and takeover of the barangay with jurisdiction.

Another section was inserted for the funding, to read as:

Section 17. Funding. As stipulated, the City Government of General Santos shall provide funds in the operation of Integrated Barangay Affairs in relation to RWSAs. (subject to style)

As to the sections for Separability Clause, Repealing Clause and Effectivity, the chair decided to retain the wordings in the draft ordinance. Further, the **numbering of sections will be adjusted accordingly**. The concern of Mr. Alolod as to the provision on water conservation and reforestation will be included in another ordinance which will fall under the environmental conservation.

At this stage, the chair reiterated his request to the DPWH representative on the list of RWSAs, to which the representative promised to submit the same within the month.

There being no further amendment, the chair after expressing his thanks to the attendees informed that another hearing will be conducted to finalize the ordinance.

FOR ANOTHER HEARING

Thereafter, the chair declared the committee hearing adjourned at 12:15 o'clock in the afternoon.

COMMITTEE HEARING - ADJOURNED

Prepared by:

JULIET A. DELA TORRE
Stenographic Reporter III

INOCENCIA J. TUMBAGA
Stenographic Reporter III

Edited by:

Noted by:

JANET B. ZABALA
Stenographic Reporter III

LOLITA P. PEDRO
Division Chief, Journal & Minutes

ATTESTED:

DOMINADOR S. LAGARE III
City Councilor & Presiding Officer