Chamorro Land Trust Commission

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Commission Members

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Chairman

Annie R. Perez
Commissioner

David J. Matanane
Commissioner

COMMISSION MEETING MINUTES
Dept. of Land Management Conference Room, Anigua
March 9, 2005; 4pm

I. CALL TO ORDER

Meeting was called to order at 4pm by Chairman Delfin Damian. Present were Commissioner Annie Perez, Commissioner David Matanane, newly appointed Commissioner Oscar Calvo and Administrative Director Thomas Elliott.

II. APPROVAL OF MINUTES (February 16, 2005)

Commissioner Matanane moved to approve the minutes of February 16, 2005 subject to corrections. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.

III. OLD BUSINESS

1. Ruel Valencia case (Item not included on Agenda)

The Administrative Director informed the Commissioners that Mr. Valencia is requesting use of Lot 5001 and Lot 5002 in Harmon alongside Route 16. According to the Administrative Director there is also a previous request by Mr. Ernest Wusstig for the same lots. The Administrative Director stated that he is trying to arrange to have both parties come to an amicable solution and once that is resolved then the Director will present both cases to the Commission.

2. Perez Bros., Inc.

The Administrative Director informed the Commissioners that Perez Bros. is requesting a license to quarry a portion of the Chamorro Land Trust Commission's cliff line property which adjoins the Ancestral Lands Commission property in Yigo. The area is southwest of the Guam Raceway Park. A site inspection was attempted earlier this week but the Commission was unable to do so because the only access would be through the fenced area adjoining the Guam Raceway Park.

The Administrative Director commented that the site inspection will be coordinated with Mr. Henry Simpson of the Guam Raceway Park to accommodate the Commission with access through his property.

The Administrative Director also stated that Perez Bros. is requesting alternative transaction terms or consideration as a resolution for a claim of interest at another piece of Chamorro Land Trust property.

The Administrative Director recommended that the Commission postpone any further consideration until after a site inspection is conducted.

3. Transworld Radio

The Administrative Director informed the Commissioners that KTWR Transworld Radio is requesting an additional 1.2 acres to extend their antennae field. They are currently leasing a portion of Lot 440 in Merizo which is comprised of about 17.4 acres. The added area will still be less than the 20 acre limit that is required. A site inspection was conducted on March 7, 2005 and there was no physical impediments noted to extending the antennae field, however, the requested land area was found out to be under the purview of Department of Land Management.

James Parmerlee stated that he was informed that the area requested is under the jurisdiction of Department of Land Management and commented that he would need to make another copy of the proposal to be submitted to Department of Land Management.

The Administrative Director commented that he will forward the Commission's copy of the proposal to the Department of Land Management. The Administrative Director suggested that if Department of Land Management does not want to transfer the 1.2 acres to the Commission then perhaps the can ask Dept. of Land Management if they want to deal with Mr. Parmerlee directly.

Chairman Damian informed the Administrative Director to work with Dept. of Land Management in regards to the options available.

Commissioner Calvo inquired if the property that Transworld Radio is requesting for is to expand their antennae field.

Mr. Parmerlee commented that they are going to add one more antennae.

Commissioner Calvo clarified if it is going to take another 1.2 acres.

Mr. Parmerlee commented yes.

4. Ambros, Inc. (Item not included on Agenda)

The Administrative Director commented that the request was to license two panhandled lots over by the beachside behind the 76 gas station in Anigua. The Administrative Director had authorized Mr .Tom Shimizu to proceed on having an appraisal done on the property. The appraisal is completed and the Administrative Director commented that he is ready to move

forward to execute the license. Until the Commission is allowed to exchange or sell the property, Ambros purchase request will not be entertained at this point.

5. Hawaiian Rock Products

The Administrative Director commented that Hawaiian Rock is requesting a license to quarry a portion of Lot 5412 in Mangilao. There was an impediment created by the International Shooting Center which is owned by Mr. Flores occupying an area not to exceed 20 acres. The issue with the International Shooting Center was the question of arrears. The Administrative Director informed the Commission that he had met with Mr. Flores and suggested to him if he would be willing to reduce his acreage not exceed 5 acres and that we will be willing to negotiate on his arrears which he agreed to.

The Administrative Director informed the Commission that the dirt road access from Route 15 runs over 5 to 6 feet of federal and private properties.

Chairman Damian inquired if there are other access areas.

The Administrative Director commented that the Commission has yet to identify any other access areas and it seems like at this point that is the only access area.

The Administrative Director commented that if the use of the dirt road continues to go unchallenged it would still be prudent for the Commission to clarify ownership of the lots before we allow any other client use of the area.

Commissioner Matanane inquired from the Administrative Director if he had consulted Mr. Flores on his arrears on the license and if he was given a reasonable agreement to repay the fees.

The Administrative Director commented that we are structuring a repayment schedule for Mr. Flores.

Chairman Damian commented should there be any more problems with the payment schedule we would have no other recourse but to take the lease back from him particularly since he has been tardy for a long time and there hasn't been any activity on the property. The Chairman suggested that when the Director meets with Mr. Flores to work out the payment schedule that we provide the language that he is going to acknowledge which states that he can't afford to be behind on the payments and to give him a timeframe to do some activity directly involved with the lease.

Commissioner Calvo inquired if the dirt road was ever the right easement or if it was a bull cart trail.

The Administrative Director commented that it is not a bull cart trail but rather a regular dirt road that has never been paved.

Commissioner Calvo commented that the owners could challenge the road.

The Administrative Director commented yes.

Chairman Damian commented that the solution is if we are not able to use the access road then we would need to provide another access for our clients.

Chairman Damian requested that this item be put for the next meeting with more updates.

The Administrative Director commented that he wants to proceed with caution with Mr. Flores primarily because if the access is challenged then the license with Mr. Flores becomes invalid because he can no longer access the property. The Administrative Director commented that he would like to address the access issue first.

6. Ypao Point status

Felix Dungca commented that the Commission is now at the tail end of a lengthy negotiation. We have the verbal commitment from the developer to conclude negotiations before the end of this month.

Mr. Dungca provided an updated report from the developer's attorney citing two items that must be resolved before the Commission can commence negotiation. One item is the Property Title Report which has been ordered by the attorney. According to Mr. Dungca, the attorney had already been assured by Title Guarantee that they will expedite the report. The second item is the issue of the performance bond. In the RFDP there was a requirement that before the Commission can commence negotiations on the specifics that the Developer must provide a $50,000 performance bond. The Developers have tried to obtain a bond and have submitted documentation that no company on Guam offers that. In lieu of the performance bond they are requesting if they could be authorized to submit a cashiers check in the amount of $50,000 to the Commission. Once the payment is made then the Commission can commence the actual negotiations.

Mr. Dungca drafted a resolution that will address the issue of the performance bond if the Commission approves it.

Chairman Damian instructed Mr. Dungca to make sure that any pertinent documents with respect to the inability of the Developer to secure the performance bond be attached to the documents that he is going to be submitting with the cashiers check. The Commission wants to make sure that we have exhausted legal means and that the only other alternative left for us is for them to sign a cashiers check to the Commission.

Mr. Dungca informed the Commission that the attorney for the Developers will provide the documentation.

Chairman Damian commented that the $50,000 is non- refundable and the Commission is all in agreement of specific minimums. Other areas of concerns that the Commission wants covered are the feedback from the Attorney General and those issues that need to be addressed and provide solutions for prior to sending the documents to the Attorney General.

Chairman Damian commented that the Commission will be going into negotiations with the Developer and at that time once we do get a signature and the Commission is happy with the project then a press conference will be called

Commissioner Matanane commented that he thought the $50,000 performance bond was received already. Commissioner Matanane further stated that the Ypao Point Taskforce requires the performance bond from the Developers before we even entertain them.

Chairman commented that we can look into it.

Commissioner Matanane commented that when we approve the project then that's when the developers are required to get the performance bond.

Felix Dungca commented that he will verify with GEDCA if the performance bond was ever provided in 2003.

Commissioner Perez commented that she recalls that the check was in the process to be deposited to a local bank.

Felix Dungca commented that the procedure is that once the most qualified developer is identified the first requirement is the $50,000 performance bond and then once during the negotiations and both parties agree as to the terms and conditions on the payment schedule then upon signing a DA the amount of $500,000 gets paid.

Felix Dungca commented that the $500,000 can be negotiable, not at a lesser amount but rather higher.

Commissioner Matanane recalls that before the Ypao Point Taskforce even entertains the developer, once they select the most qualified they are supposed to submit the non-refundable $50,000.

Commission members commented that they will not entertain the resolution at this point until further clarification is obtained regarding the performance bond issue.

IV. NEW BUSINESS

1. From Miniature World of Guam
Re: Commercial request for a theme park

The Administrative Director commented that Miniature World is requesting up to 50 acres to build a theme park.

Thomas Pak (Miniature World) informed the Commission that they are a virtual world company in Korea and they want to invest on a theme park on island to help with tourism and to educate the students. They had submitted their documents to the Commission about 2 months ago on their request and had never gotten any feed back from the Commission. Mr. Pak hopes that he could get more detailed information on the conditions of the lease and amounts.

The Administrative Director commented that he had met with Mr. Pak and his associate and the Commission is in the process of identifying 50 acres.

Chairman Damian commented that one of the things that the Commission would need to look at some of the previous work that we have done with Ypao Point with regards to the structure of the agreement. The second option is to move into the commercial licensing side of the Land Trust. There are limitations on the amount of square footage and land mass when you go into the commercial side. This may be a problem with respect to the number of land area that this particular project is asking for. If we cannot put it in the commercial side because of the limitations on the land size and the rules and regulations the only other option for us is to negotiate a lease.

Chairman Damian informed Mr. Pak that the Commission staff is looking into identifying areas.

Commissioner Matanane inquired on how long has Mr. Pak been on the island.

Mr. Pak commented about 33 years.

Commissioner Matanane commented that Mr. Pak would probably have an idea of a location he is interested in.

Mr. Pak commented that they are looking at the Ypao Point area. The area is a short distance for the tourist to walk by and the school is also near by. Their business was established 3 years ago and they have an approved budget of 50 million dollars in a bank in Korea.

Commissioner Calvo inquired if the request is more of a mall type building.

Mr. Pak commented that there will be some small gifts shops and main office.

Mr. Pak commented that they are requesting between 35 to 50 acres. If they can get 50 acres they would also like to build a museum for Chamorro culture. They will be working with GVB in obtaining pictures or documents relating to the Chamorro culture.

The Administrative Director commented that it is going to be theme park concept to include miniature exhibits of different parts of the world.

Commissioner Perez inquired that in their idea of getting possibly 50 acres is it in the planning stages that there is a possibility of adding Guam's culture?

Mr. Pak commented yes it is one of our plans already.

Commissioner Perez informed Mr. Pak to also look into the historic preservation at the Department of Parks and Recreation to obtain additional information on the culture.

Chairman Damian informed Mr. Pak that the Director will continue to communicate with him on his request and that the Commission wishes him the best of luck and hope that they would be able to be a part of his aspiration to build the theme park. Chairman Damian commented that he hopes that the Commission would be able to accommodate Mr. Pak.

2. From National Car Rental
Re: Request to lease property in Yigo

Cita Tomada (National Car Rental) commented that National Car Rental wants to expand their operations. They used to be at Anderson Air Force Base but lost the bid and they are still getting quite a bit of customers from Anderson. They are interested in the area in Yigo which consists of 2 acres. At this point they know that they don't need the whole 2 acres but they might be able to develop the whole area.

According to Cita Tomada, National Car Rental is a stable company in business for over 20 years and they have experience in dealing with the military personnel.

Jone Espino (National Car Rental) commented that they want to be accessed to anyone in the area. They want to be able to develop the area and to also draw out business from Anderson that they already have. Because of their operation at the Airport is so far away from Anderson it would be much more feasible if they had another operation near Anderson.

The Administrative Director informed the Commission that the area preliminarily identified is right in the corner of the Anderson front gate. This is preliminarily at this point because we we still need to identify if the land is in our inventory.

Chairman Damian commented that their initial use is for the car rental and perhaps an expansion to diversify their investments.

Chairman Damian informed the Administrative Director to research the area and if the lot is not available then to continue to provide the services that we can for the National Car Rental. Commissioner Damian commented that the Commission hopes that we would be able to bring National Car Rental into our commercial licensing program.

V. DIRECTOR'S REPORT

The Administrative Director informed the Commissioners that the estimated acreage in the Commission's inventory is roughly about 5,400 acres subject to verification.

In January and February of this year the Commission had issued 6 leases totaling 9 acres.

The Commission had awarded 53 NOIAs (Notice of Intent to Award leases) totaling 29 acres.

Roughly speaking the remaining balance is 5,375 acres of registered lands. The Commission has quite a bit of unregistered parcels totaling around 3,500 plus acres. Unfortunately there are leases on these unregistered lands. The Commission has approximately 356 leases on unregistered lands out of which 134 are residential and 222 are agricultural. The total acreage of unregistered leased lands are 352.50 acres

Chairman Damian commented that there is a bill at the Legislature to cease any more agricultural land in the venue of grazing. The Commission will be meeting to put together our resolution and response to some of the bills that are currently at the Legislature. Part of the justification of the Senators to do that is the limited amount of land and they would much rather use the land for residential and agricultural and not so much for grazing.

The Administrative Director informed the Commission that we have a total of 3 commercial leases roughly totaling about $21,000 a month in rent. The Commission also has 12 commercial licenses roughly totaling about $12,000 a month in rent.

For January the Commission's revenue was $59,804.94 with $4,371.33 in expenditures. In February the Commission's revenue was $40,329.71 with $6,731.68 in expenditures.

Commissioner Matanane inquired on what is the difference between a commercial lease and commercial license.

The Administrative Director commented that from his understanding the license is a permit to use the property for a specific purpose whereas the lease is a general conveyance of the property.

Commissioner Matanane inquired on what type of license are we issuing out.

The Administrative Director commented 21 year licenses.

Chairman Damian commented that we will be addressing that because the leasing part is work of the Legislature and so much of it came in to existence through legislative law and when the licensing part came in it was strictly Land Trust rule and policy program.

Commissioner Perez inquired on why are some of the lots not registered.

The Administrative Director commented that the registration has to be completed according to the Land Registration Act which requires that we identify the unregistered parcels and take it through the legal process.

Commissioner Perez inquired on why are we leasing out unregistered lands and that we need to clarify these issues.

Chairman Damian commented that we will take that issue up along with other issues such as personnel and budget with the Governor.

The Administrative Director commented that he is formulating a program along with the help from the Department of Agriculture and the University of Guam on what he would like to name as the Chamorro Land Trust Commission farmers certification program. This program in conjunction with Dept. of Agriculture and U.O.G. will promote the agricultural industry. It would help our Land Trust farmers to be successful in their farming endeavors. Our farmers would benefit from that rather than just handing out acres upon acres to applicants because they would like to have it. The Administrative Director commented on why not require them to go through a program so that they can qualify for this acreage and as they proceed along with their learning process and farming activities then they can request for additional acres to expand what they are currently working on.

Commissioner Calvo commented that at least we know that when we lease the property it is going to be used.

Commissioner Matanane commented that some meetings ago it was brought up before the Commission about an aquaculture project on Wusstig Road that maybe we could have the farmers go to observe the techniques.

The Administrative Director commented that the Commission would have to find a venture to take over the facilities.

Chairman Damian commented that should that become a reality the Commission would need to go to the legislature for changes or additions to our rules and regulations and policies.

VI. PUBLIC COMMENTS

Ivan Borja Carbullido commented that some of the things he has heard at the last meeting are people leasing the properties and they haven't done any activity on it.

Chairman Damian commented that the Commission has begun an aggressive campaign in updating the Commission's residential and agricultural leases and commercial licenses. The Commission does make it policy to work out and maintain the original client however, if no action is taken or no response is made the Commission has another recourse such as to take the license back.

Ernest Sablan Wusstig informed the Commission that he is a full time farmer for 32 years. He is here because he was informed that someone was trying to take his property in Harmon. Mr. Wusstig commented that he acquired 20 acres and it took him about 10 years to develop the farm to where he wants it to be. He had acquired land on Route 16, which are Lots 5001 and 5002 and had heard at the last meeting that someone wanted that land also. Mr. Wusstig commented that if the land was already given out how can it be given out again.

Mr. Wusstig stated that the reason for that land is so that he can sell his produce directly to the public and not relying on the supermarkets and the roadside markets. According to Mr. Wusstig at this time the federal government is giving out grants for roadside markets. The reason why he had not been building anything on the property in Harmon is because he had been busy with his 20 acre lease.

Chairman Damian commented that the Commission will look into the situation.

VII. ADJOURNMENT

Meeting was adjourned at 6:20pm.

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