Chamorro Land Trust Commission

(Kumision Inangokkon Tano' Chamoru)

P.O. Box 2950 Hagåtña, Guam 96932 Phone: 475-4251 Fax: 477-8082

Felix P. Camacho
Governor of Guam

Michael W. Cruz, M.D.
Lieutenant Governor of Guam

Commission Members

Delfin R. Damian, Jr.,
Chairman

Annie R. Perez
Commissioner

David J. Matanane
Commissioner

Oscar A. Calvo
Commissioner

(Vacant)
Commissioner

Michael C. James
Acting Administrative Director

REGULAR BOARD MEETING AGENDA
Guam Ancestral Lands Commission Conference Room, Anigua
February 28, 2007; 4:12pm – 6:55pm

I. CALL TO ORDER – **4:12pm**

- **Present: Chairman Delfin Damian, Commissioner Oscar Calvo, Commissioner David Matanane, Commissioner Annie Perez, Legal Counsel Ike Aguigui and Joseph Borja.**
  Not Present: Acting Administrative Director Michael James.

II. APPROVAL OF MINUTES (January 17, 2007) - **APPROVED**

III. OLD BUSINESS

1. Guam Outdoor Shooting Range

- **Commissioner Matanane made a motion to authorize Legal Counsel to proceed with the closure of the license to International Shooting Center and to require that Department of Land Management would be the ones to do the survey on the property. Commissioner Calvo seconded the motion. There were no objections, MOTION PASSED.**
- **Commission will decide in at least 30 days or until the next meeting if they will proceed with the license request.**

IV. NEW BUSINESS

1. From Guam Youth Football League
   Re: Request to lease Lot 10057-NEW-R6, Dededo

- **Item tabled until the next meeting pending more information from staff.**

V. ADVISORY / ADMINISTRATIVE MATTERS

1. Ypao Point

- **Legal Counsel to review statutes and will provide status.**

2. Amendment to Inadahen I Kutturan Guahan License

- **Commissioner Matanane made a motion to amend the lot acreage issued to the Inadahen I Kutturan Guahan to no more than 9 acres and no less than 8 acres on their license on a portion of Ypao Point. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.**

3. USDA Loan Program

- **Administrative Director to work on press release.**

4. Land Registration Proceedings

- **Legal Counsel to review issue of CLTC conducting its own land registration proceedings.**

5. Priority Placement

- **Legal Counsel to review issue of CLTC revisiting the order of issuance of property allowing priority to those who have approved funding.**

6. Undeveloped Leased Properties

- **Commissioner Perez requested for a listing of leases issued on developable property (all infrastructure in place) that have not been developed by the lessee within the given timeframe allowed by law.**

7. Repair of DLM Survey Equipment

- **Commissioner Calvo made a motion to approve payment not to exceed $1,300 to cover cost of repair of Dept. of Land Management's survey equipment. Commissioner Matanane seconded the motion. There were no objections, MOTION PASSED.**

VI. PUBLIC COMMENTS

1. Ceferina Espiritu - Calara/Espiritu land dispute

- **Staff report to be prepared on the Calara/Espiritu land dispute and will be brought up at the next meeting for action.**

2. Alicia Pinaula – deletion of easement request

- **Commissioner Matanane made a motion to authorize the Administrative Director to go before the Guam Land Use Commission to request for the deletion of easement. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.**

VII. EXECUTIVE SESSION – **Personnel matters.**

VIII. ADJOURNMENT – **6:55pm**

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COMMISSION MEETING MINUTES
Guam Ancestral Lands Commission Conference Room, Anigua
February 28, 2007; 4:12pm – 6:55pm

I. CALL TO ORDER

Meeting was called to order at 4:12pm by Chairman Delfin Damian. Present were Commissioner Oscar Calvo, Commissioner David Matanane, Commissioner Annie Perez, Legal Counsel Ike Aguigui and Joseph Borja. Acting Administrative Director Michael James was not able to attend.

II. APPROVAL OF MINUTES (January 17, 2007)

Commissioner Calvo moved to approve the minutes of January 17, 2007 subject to corrections. Commissioner Matanane seconded the motion. There were no objections, MOTION PASSED.

III. OLD BUSINESS

1. Guam Outdoor Shooting Range

Chairman Damian commented that there are several dynamics playing in the scenario for Lot 5412 in Mangilao which is the Guam Power Authority, the license to International Shooting Center, the Hawaiian Rock Products quarry and the Guam Outdoor Shooting Range who is requesting to license a portion of the lot. Chairman Damian commented that at the last meeting the Commission voted to terminate the license to International Shooting Center.

John Unpingco (Attorney, Guam Outdoor Shooting Range) -I am one of two local folks involved in this project the other one is our range master. We are looking for a piece of property that is large enough for our shooting range to expand the various target range it offers. There are different target ranges. One for long range for the rifles and other high powered weapons, the short range for pistols and revolvers and the third range that is paintball that is very popular nowadays. Usually in that kind of situation in the paintball you have obstacles that you put in. It is sort of like a hide and seek in other words you try to get your enemy out and you hit him with a shot and of course the paint will splatter on him. The other thing that we would like to do is to have a restaurant. I believe there is a hill area there and we believe we could attract quite a few tourists to give them a package deal of anyone of these or all of these activities plus give them a meal as well. As you know the hill overlooks the ocean so it is really a scenic area. Not only that but we also hope to attract the local folks with a good restaurant. Of course we would need a sizeable amount of land but in looking at the map there is quite a bit of land in this particular plot and we are willing to share it with whomever we need to share it with. We do have to construct berms if they are not there currently and this is for safety reasons mainly for the ricochets of the overshoots. We are in the process, we have one of our members or one of

the corporate officers who've been to Japan quite a few times and we have Japanese investors lined up already. The capitalization for the project will be from non-local funding and these are gun club enthusiasts. The other thing that our chairperson has done, Mr. Suzuki he has been in contact with about 200 gun clubs in Japan and we are trying to convince them that we should be the gun club that they should go to practice because we are close. The flying time is very reasonable they can come in on a Friday evening after work for instance and the next day start shooting and then Sunday perhaps shoot early in the morning and then take the Sunday evening plane back to Japan and they'll be at work Monday so its just ideal. The type of tourists that we are trying to attract are on the higher economic plane, these are folks that can afford to do. We also hope to hitch up with for instance golfing enthusiasts. We have golf ranges here and there is no reason why we can't hook up with those folks so that we can offer lets say Friday night dinner, Saturday they go golfing and then Sunday morning they go shooting or vice versa. There are all kinds of possibilities that we envision here and we are anticipating on hiring between 30 to 70 people depending on how the activities are. We do have a range master currently certified. Currently the company is renting property right next to the Talofofo Falls area and the reason we started that is because when we started the business we wanted the spill over traffic or the tourists. They could go to Talofofo Falls and as another activity they can also go to the shooting range. That was the reason we were trying to hook up a known tourist attraction with our attraction.

Mike Moreno (Controller, Guam Outdoor Shooting Range) – I started getting involved with the company in June of last year and since then I've been taking care of the accounting functions for the company. Although we have started the business in that small range and as Mr. Suzuki the Chairman had predicted because of the enthusiasm that the Japanese market has as far as shooting live guns due to the fact that in Japan it is illegal to even hold a gun, he told us that the market is there. Through his predictions and assumptions he had projected a revenue base which was presented to the Ancestral Lands Commission. It has bypassed that, it has gone over that. That was his conservative estimates and just the Talofofo range itself he had already gone over the revenue base. In fact there is and it shows in the many months that we have been in operation that it is still a growing market and looking at the competitors if you will on Guam we do have a lot of indoor ranges but we do not have many outdoor ranges. As one of the outdoor range doing business on Guam I believe we had presented to the Japanese tourists a first class facility in that small area. What we would like to do is expand that in order to accommodate the increase in numbers that we anticipate.

John Unpingco - What makes this range that we are proposing different or even our current operations in Talofofo is at these indoor shooting ranges you can only hold the pistol but it is wired so that you have very limited maneuvering and part of that of course is that sometimes these beginner shooters close their eyes and they just knock off a round and you don't know what direction the bullet is going to take. The outdoor shooting range beside from being outdoor and giving them a taste of the local environment it also offers them that freedom plus it is more of a relaxed atmosphere.

Joseph Borja - I'm here from the Governor's Office at the Governor's direction to assist in the transition for the new administrative division of the Chamorro Land Trust Commission and as you said earlier the Acting Administrative Director Mr. Mike James was not able to make it today. However, I was here at the last two meetings as the Acting Director and I would like to present a return on the projects, items and issues that were taken up at the

last two meetings. With no personal concern I hope this would be my last meeting before the Board. I'm approaching this issue although related to the presentation that Attorney Unpingco made on the lot basis. His request is for specific use of the property but the information I will be presenting to the Commission is the status of the entire lot. The lot that is under review is Lot 5412 in Mangilao, it is more commonly known as the Fadian Quarry. It has 98 acres total and it extends two lots back from Route 15. In other words between Route 15 and Lot 5412 there are two other lots. One lot belongs to Guam Community College and the lot belongs to Manuel Perez a private landowner. One of the problems that we had with this property in the beginning is that Lot 5412 was technically legally landlocked. Since that time though Guam Power Authority has arranged for access through easements granted by GCC and Mr. Perez. There are actually 6 players, interested parties in the entire lot not necessarily in the specific area that Attorney Unpingco is referring to and not necessarily in the area of GPA.

1. Chamorro Land Trust Commission, the owner;
2. GPA through P.L. 22-18 whereas 15 acres were reserved to develop their central operations;
3. Hawaiian Rock Products who received a two year exploratory license to check if the aggregate in the area were of quality that they may be interested in quarrying the area. They have sent a letter to the Commission indicating that the aggregate is of high quality.;
4. International Shooting Center who were granted a license seven or nine years ago and the only improvement they have done to the property was put up a gate.;
5. A lease that was authorized by the Legislature but never consummated by the administration of 20 acres to Mr. Michael Kuhlmann. That authorization is still in the books but I don't know if they have any plans of resurrecting it. In any event the 20 acres that were reserved or proposed for a lease to Mr. Kuhlmann is not in the area where International Shooting Center is, GPA or in the area where I believe Guam Outdoor Shooting Range is interested in.; and
6. Guam Outdoor Shooting Range.

A certain piece of the property is actually a big hole that has been quarried. As Attorney Unpingco said there is a high hill there a bluff where if you were to shoot inland it would provide adequate protection from the bullets going through there unless you shoot straight up of course. The other reason why this property is ideal for a shooting range is that you can turn your range and shoot out toward the ocean. That part of the island is not commonly used for fishing because it is on the windward side of the island. The property itself is very heavily rock. Again it is the quality that if you do quarry it and wash it out it doesn't leave much dust so it is ideal for construction. The area though is also infested with heavy metallic waste. For years and years the Government of Guam has been using this site as a dumping site for abandoned vehicles. My recommendation at this point is I know the Commission has made reference to termination of the International Shooting Center lease and I would recommend that legal counsel review the minutes. We could not find in the recent minutes an actual motion directing legal counsel to terminate that lease. In addition to that we can turn over the entire file for International Shooting Center to legal counsel so that he can proceed and possibly make recommendation on notice and on the course of actions regarding possible termination of that previous license. The Commission should also look at the entire property in terms of development rather than just looking at the request here by Attorney Unpingco. Surrounding plans for that area from my knowledge at Land Management is that you have the Ladera Towers within that area and a lot of tourist activity in that area. Across the street is the drop zone for the

various parachuting and sky diving companies and the world class golf course in the Mangilao Golf Resort. I believe the street which is now under Guam Community College Speaker Forbes has announced publicly that he intends to introduce legislation to return that to original landowners. I did forget one other interested party but I would think they are just interested at this time. 2 acres were received by public law for an energy efficient demonstration office for the Guam Energy Office. Guam Energy Office had already built the demonstration office on the grounds of the DPW compound so there is no need nor do they have funds to build another energy efficient office. I would say that the 2 acres are now probably under the jurisdiction of the Chamorro Land Trust Commission. The shooting range people whether it be the shooting range or the shooting center, you probably would not find too many other lots to my knowledge that might be acceptable for the type of use they have and for the location of the shooting range. I'm sure there is a reason why a shooting range could be more feasible and more profitable in the north rather than traveling all the way down south because of the distance involved. I presented this request based on lot and not rather the use.

Commissioner Matanane inquired on how much acreage are they requesting for.

John Unpingco commented that are looking at minimum of a little over 45 acres to accommodate all of the activities that they have proposed.

Commissioner Matanane commented that tallying the ones that are already questionable came down to 76 acres. Can you give me an overview of the lot is it facing the ocean?

Joseph Borja commented it is facing the ocean. The quarry is in the southwestern corner. Minus the acreage reserved by public law aside from the Guam Energy Office and Michael Kuhlman you would have 83 acres left and if you decide to recognize the license by International Shooting Center I don't know how much that is. The topography of the property does not make it entirely possible for development. At least one-quarter of the property is on a slope and its just inaccessible. That particular part of the lot would probably be best if done as a nature trail for example because it is at least 45 degrees slope and on the bottom part of it is the actual cove for the water. Not all of the remaining acreage even if you don't count International Shooting Center as available would lend itself to the development of a shooting range.

Commissioner Matanane commented so you're saying that International Shooting Center has the hole.

Joseph Borja commented yes that is licensed. Another portion that is not licensed is a steep slope which is on the southeastern corner of the property.

Commissioner Matanane inquired if they had gone up to look at the property.

John Unpingco commented yes, our people have gone up.

Commissioner Matanane commented that if you are going to take all the acreage up there for I believe a shooting range and the 76 or 86 acres consists of probably on the top portion. Is there still excess land on the top portion?

Joseph Borja commented that there is a level portion of the property on the top but the actual shooting would probably be in the lower part of the property closest to the ocean side.

Commissioner Matanane commented I believe they are requesting for the quarry.

John Unpingco commented yes. The quarry is on the southeast corner and that is probably where the range would probably be located. There is a cliff line area that looks out to the ocean outside of the quarry and that is where we were thinking of a restaurant. We've looked at GPA probably being up on the northwestern corner because that is the most visible level land for their purposes. The reason we are interested in the quarry is because we don't have to do much digging.

Commissioner Calvo inquired on how much acres was the other company leasing, the one that defaulted.

Joseph Borja commented I believe it was 25 acres down where the actual quarry is.

Commissioner Calvo commented that in essence to that you want the pit and like you said it is a safe line so you have all the safety factors there.

John Unpingco commented yes. Typically in a shooting range it is like a rectangle, opened in one end and we construct berms on each side and it is fairly high.

Commissioner Calvo inquired if the 45 acres that they are looking for ties in with the pit.

John Unpinco commented yes, it would be a very beneficial use of a hole in the ground.

Commissioner Perez inquired if they are going to fence off the area around the hole that is overlooking the cliff line so that there could still have nature walks.

Joseph Borja commented that the hole is below the cliff line. If you are down in the quarry you actually have on 2 sides at least if not 3 or 4 sides already you would have this hill.

Commissioner Perez commented that for safety reasons would there be a fence so that people on nature walks do not go exploring down to the quarry.

John Unpingco commented yes. I can honestly tell you that all safety precautions would have to be abided by because our insurance company. It is very expensive to get insurance, it is almost not in existence for this kind of operation. What ever safety requirements that are required by the insurance company and the safety folks in Guam and there are several agencies that are involved, we will follow whatever they say. If it is so dangerous and we cannot allow safety walks then of course we will inform you the Board that it is not a good idea. Right now the only danger is if someone shoots up because that piece of bullet has to land some place. We have range masters that are supervising the shootings. Before they go out to the range we give them some instructions on how to hold the gun and the recoil effects. The restaurant is one of the things that we are looking at and we are looking at bullet proof glass for instance as a way of safety and of course the concrete we are thinking will stop the bullet. We do have a lot

of safety features in mind prompted not just by the insurance but also for the safety of our customers.

Commissioner Perez commented that her concern is not so much on the range because she knows that they will follow the guidelines but if there is a nature walk on the cliff line that is what I am concerned about.

John Unpingco commented that he agrees with her because we do have some curiosity seekers that will just wonder off just to test what they can get away with it. If we have to fence of that area we will do so.

Commissioner Calvo inquired if they are going to provide signs.

John Unpingco commented yes they must provide signage.

Joseph Borja commented that just so that there is no confusion if you look at the financial report the money received from Hawaiian Rock in the amount of $10,741 is not the license fee that Hawaiian Rock paid relating to this property. This payment is for royalties for materials that they are quarrying from the Jose Calvo Raceway Park.

Chairman Damian commented that the options available is number one it is certainly the prerogative of this Commission to go and inspect the site in order to get a better view of what the areas in question are and number two it is encumbered on us to make sure that we have satisfied GPA's concerns in respect to any boundary disputes and any other disputes that GPA may bring about. Also we need to let the Guam Outdoor Shooting people know what kind of timeline we are working at with respect to approving or disapproving their inquiries. I'm sure that they do have timelines set that need to go into place. A lot of it is determined by weather for instance and a lot that has to go into planning of that. I ask that you please consider what appropriate timelines we can give the Guam Outdoor Shooting people in order for them to plan well and move once a direction has been given to them. What kind of timelines are you looking at? Would you like a 30 day timeline to give the notice of intent or to not approve the licensing of that section that is up to the Commission members right now. We certainly have the time but we don't want to take too long because I'm sure that the Guam Outdoor Shooting is ready to move as soon as they get word.

Commissioner Calvo requested if they could present the design and scope of work to the Commission and the timeframe they are contemplating.

John Unpingco commented that there are several considerations. First, Guam Outdoor Shooting Range is willing to foot the cost of the survey. Second, is that we are looking at two other sites that we would like to rent. Of the three sites this is the most viable. We are also pressed a little bit for time and I'm not trying to rush the Commission. That is another thing we don't know which one of these properties is going to become available to us. The biggest factor in pushing us are the investors in Japan because they want to know exactly the same thing as far as timeline. I can give you rough outlines but as far as specifications for the construction to go on before we invest that amount of money because we looking at three location. We can give a rough outline of what we hope to accomplish like if you give us the lease in the next 30 days we are looking at trying to get something operational by December. The big factor here is that the hole is there already.

Commissioner Calvo commented that hypothetically if we give you 60 days to give us an actual input of what you are going to have. There are a lot of staging work that you are going to do but the main work that I'm interested in is what your design really calls for and on the timeframe. That way we can say that we gave you ample time to do all that versus the company that had that for nine years and didn't do anything.

John Unpingco commented that we can give you the timeline and the plan but we can't give the exact specifications for the building because that needs an architect and engineering and the other thing is that there is no power and water so we are going to have to locate the points from which we can hook up and that can take some time. My feeling of the Board is that you are favorably inclined to us and we'll be happy to do these things for you. If it is the basic design and timeframe I think we can give that to you within a week or two weeks. These are preliminary and a lot of it will depend on what the digging conditions are too.

Commissioner Perez commented that if you are given the property and we say that within 30 days the lease can be in the process and once you sign the lease can you guarantee us that within maybe 60 days that you would show us in your timeline that a survey of the property can be done? In that way we are going to be committed, you committed yourself to that and we will have that assurance that there is no backing out on the contract.

John Unpingco commented yes and that the major push on them as far as timing goes are the investors in Japan. If you were to commit to us that you would give the lease then we can justify to these investors. Right now the reluctance of our officials is we don't want to invest lets say $100,000 or $60,000 in all this planning and its for nothing when we could take the same money and put it on another site where we feel we're being favorably received and put it there. It is strictly an economics thing and we'll be happy to do whatever you ask us to do. We can have milestones where we come to the meeting and report on our progress.

Commissioner Matanane commented that if Mr. Unpingco is weary about our decision as to whether they should lease one obstacle that we really need to take care of is the International Shooting Center. I would also like to ask Mr. Unpingco that if you should lease the property would there be an initial deposit?

John Unpingco commented we don't know what your requirements are so what ever you require us and if it is within our means we will certainly comply. If you can give us a letter of intent that you are favorably inclined to our project it will really help with our investors.

Joseph Borja commented that the Board has timeframes and work on its own and the timeframe and the work that you have is to solidify your board instruction to terminate the International Shooting Center to preclude any possible legal action. There is also a termination process that is included in the license that was granted to International Shooting Center. You do have those timelines and work that the Commission has to do to get the property free and clear so that it could be leased out. A couple of items of information is that GPA has done substantial mapping of the area, surveying of the area and it would be a good idea for whoever receives a license or letter of intent to use the property to obtain those maps because it is a boundary survey as well as a topographical survey that shows the shape of the land. Just reminding the Commission again and it

might be semantics but under the enabling legislation of the Land Trust Commission you are only allowed to issue licenses at this time which is 21 year maximum in 5 year intervals and I'm sure that will help Attorney Unpingco's group consider that and not at this particular point at least a long term commercial lease.

Chairman Damian commented that we will be entertaining a motion to go with the termination if it is not in the minutes.

Joseph Borja commented that if they are going to do a survey that the Commission require that the survey be done by Land Management. Land Management has a crew that does the survey and since this is government land it could be justified that Land Management does the survey but as any other people in business they would like to get paid for the survey. I would dare say that if Land Management does the survey it will be faster because they are the ones also reviewing the maps.

Chairman Damian commented that is a point well taken and that is going to be critical in moving the project along and we will entertain that as part of the motion and make sure that we are all in agreement. Specifically now we are looking for a timeframe the Guam Outdoor Shooting Range is going to need some kind of notice of intent or favorable response to their inquiries. As Mr. Borja stated there is going to some timeframe, a buffer zone that is needed to transact whatever closure needs to be done before we actually sign on the dotted line. Without rushing I think that based on our inquiries and communications this afternoon it looks like a minimum of 30 days is going to be needed before we can sit down again and entertain the fine details of signing off on any commercial licensing. I'm going to need a motion to instruct our legal counsel to move with proceedings to terminate the International Shooting Center license and then also to incorporate the Land Management as a co-partner with respect to the surveying of that parcel of land.

Commissioner Matanane made a motion to authorize Legal Counsel to proceed with the closure of the license to International Shooting Center and to require that Department of Land Management would be the ones to do the survey on the property.

Legal Counsel commented that he had been looking over the minutes and it was sort of discussed at the last meeting and was wondering if Mr. Borja had anything to report on because I think they were going to look at the records to see if there was any development regarding a meeting between Mr. Tom Elliot and Mr. George Flores.

Commissioner Calvo seconded the motion.

Joseph Borja commented that he met with Mr. Elliott for an update on any efforts or any contacts that he had with Mr. George Flores and there was no contact at all.

Chairman Damian commented so we will go ahead with our proceedings.

There were no objections, MOTION PASSED.

Chairman Damian informed Mr. Unpingco that once we clear that hurdle and the GPA factor what we will do then is come back on our next meeting which will be in 30 days or

less or actually in 30 days we will look at actually giving you a time on yea or nay and actual date of signing if that is the pleasure of the Commission to go ahead with this to give you timelines in order for you to at least let your investors know that you are at that point of being able to sign legal documents one we have cleared that. Of course we will also make sure that the Land Management counterpart is involved with the surveying of this property.

IV. NEW BUSINESS

1. From Guam Youth Football League
Re: Request to lease Lot 10057-NEW-R6, Dededo
Chairman Damian inquired if Joseph Borja was involved with any communication with this.

Joseph Borja commented no but he is familiar with the area and the group applying and the process. This is something similar to the northern sports complex in Harmon Loop. This lot is over by the intersection of Fatima Street, Santa Monica and Route 1. On the corner there is the GHURA housing and the area immediately next to the GHURA housing is the new northern Precinct for the Guam Police Department and Guam Fire Department. This property is behind the GHURA housing and before Wettengel Elementary School where the rugby field is. My suggestion on is to give staff time to get the map and the history of the property. They are saying the entire lot and I don't know how big the entire lot is. Maybe you might want to bring Mr. Phillips of the Guam Football League and have him sit here and present his plans for the area.

Chairman Damian requested that Mr. Borja communicate that with Mr. James so that he can take the proper steps and being communications with him and have him come in at the next meeting in order to get a little bit more detail.

Chairman Damian commented that the Commission is going to table the item until the next meeting pending more information from staff.

V. ADVISORY / ADMINISTRATIVE MATTERS

- **Ypao Point**

Joseph Borja commented that at the last meeting the Commission directed counsel to begin looking at P.L. 25-179 and any other statutes relative to Ypao Point and will advise us on the status of the Task Force.

- **Amendment to Inadahen I Kutturan Guahan License**

Joseph Borja commented that the survey is 99.99% complete done by Land Management and they are ready to stake the area. However, adhering to the exact eight acres that the Commission approved in the license those boundary lines will cut across one of the buildings directly in half. I suggest that the property line be put 25 feet away from that building but that will increase the acreage amount. It doesn't add one more acre to it but because the license says exactly 8 acres and not more or less the map was done according to the terms of the license and if we do it like that it cuts across one of the buildings.

Chairman Damian commented that we can do an amendment to the motion to allow no less than 8 acres and no more than 9 acres.

Commissioner Matanane made a motion to amend the lot acreage issued to the Inadahen I Kutturan Guahan to no more than 9 acres and no less than 8 acres on their license of a portion of Ypao Point. Commissioner Perez seconded the motion.

Discussion on the motion:
Commissioner Matanane commented that just to make sure that should we lease out the rest of Ypao Point that they don't fight over boundaries.

Joseph Borja commented that is why it is a formal map that is severing the lot so there won't be any question and the map will be recorded.

There were no objections, MOTION PASSED.

- **USDA Loan Program**

Joseph Borja commented that the USDA account has been opened, two accounts opened and we should do possibly a press release letting Chamorro Land Trust residential applicants know that there is money available under the USDA loan program to build their house. because that money is in there already. I suggest that we do it in conjunction with USDA and if not a mailing notice at least a press release notification in the paper so that our applicants for these residential lots and residential loans know that there is money available for them to borrow guaranteed by the Chamorro Land Trust for these funds and the program is being administered with a very low interest rate.

Chairman Damian commented that we do have data on that already because we have had those kinds of availability to the public and information sent out. I believe USDA does have quite a bit of data on that as a matter of fact there has already been a list that has been developed because that kind of public awareness took place at the Governor's Office in Adelup and I believe also at the Micronesian Mall. I think that we are also doing ourselves a favor by putting another press release out for that.

Chairman Damian requested Joseph Borja to direct Mr. James to look into that and put together a press release so that can become a reality.

Commissioner Calvo inquired on why don't we also use Channel 12 (KGTF) because they offered us.

Joseph Borja commented that will not be a bad idea. What we did years ago was a call in program where we noticed previous to the night of program and it was a live program and we could have the USDA representatives there where people can call in informing them of their situation to see if they qualify. We can do that kind of press release by doing that show.

- **Land Registration Proceedings**

Joseph Borja commented that the Commission may want to look at doing their own land registration of their unregistered lands. Right now it is only the Attorney General's Office and the Department of Land Management that can initiate land registration proceedings. The Land Trust has substantial sized properties that are unregistered. At least with the

previous administration at the Attorney General's Office we weren't really getting any where in terms of getting legal assistance to do these land registrations. We might want to ask Legal Counsel to research what is necessary to be changed in the law to allow the Commission to register its own property so that you don't have to wait for the Attorney General's Office. They have other higher priorities than land registration. Government of Guam has not land registered any properties in the last 10 to 20 years and by not doing so it lends itself to properties being stolen and properties being occupied because at that point being unregistered GovGuam is merely a claimant and not really the owner of the property. There is a specific section in the Land Trust law that states that the Commission shall not lease any unregistered lands. My suggestion is to have Legal Counsel take a look at and propose any legislation that may be needed to be presented to the legislature so that the Land Trust Commission now that it has its own counsel can go ahead and do land registration cases.

- **Priority Processing**

Joseph Borja commented that the processing of leases is on-going however with the influx of several loan programs with HUD, SBA, VA and just some of the local financing institutions the Commission may want to revisit the order of issuing leases. I believe now by statute it is a first come first served but I would like the Commission and this is based on experience that I've had with the applicants that some sort of priority be given to those people that have already identified approved funding. In other words you have the line of people and you may be in the front of the line but you may not have approved financing whereas the people behind you may be people who have financing already approved for housing construction but cannot get a lease yet because it is not their turn yet. I would suggest that the Commission take a look at giving priority to those with approved financing, priority to handicapped persons with approved financing and priority to veterans that have approved financing. There has been a big number of recently approve financing programs and financing plans that specifically give priority to veterans, to handicapped persons and persons who can qualify for financing of house construction loans. The interest rates fluctuates, sometimes they lose the opportunity because they don't have a lease or at the very least sometimes they lose two or three interest numbers. For example at the time they were approved the interest rate may have been 5% but the time it gets to them the interest rate may be 7% to 9%. The Commission may want to ask Legal Counsel to review that and see if they can have some sort of a preference or priority on that. The same with handicapped people, we have approximately 9 of them that have approved financing and are able to go out on their own and become self sufficient at least in getting a home but we can't give it to them yet because their turn has not yet come the same with veterans. Previous Commission did approve sending and prioritizing 300 people with prior military service. On the applications database the previous Commission and previous staff had made it a requirement to get information about previous military service so that at some point in time that may be used to process these loans. The Commission did sign an agreement with Veteran's Affairs. The Veteran's Administration making approximately 7million dollars available in loans but it has been slow because the turn for the veterans hasn't come up in the line. The Commission has also signed an agreement with USDA to process these loans. Of course the processing of loans by a federal agency there is some priority given to the processing of those loans for people with physically challenged situations but on the other side of the coin the Commission does not. Even though they may be eligible in the financing and they may have priority in the federal financing the processing of their lease does not have priority under the Chamorro Land Trust rules and regulations.

Chairman Damian inquired if that needs to be done legislatively.

Joseph Borja commented he is not sure and Legal Counsel would have to research that. I believe in the rules and regulations in P.L. 23-38 or 24-38 the initial rules and regulations created by the Legislature there is a section in there that basically directs the Commission to change its rules and regulations whenever it feels going through the administrative adjudication process without having to go back to the legislature. Legal Counsel could probably look into that.

- **Undeveloped Leased Properties**

Commissioner Perez commented that in the same line those that were already issued property and had not developed the property within 5 years of time does Land Trust have a record that tells of those that were given a lease how many have not developed their property within the 5 years time?

Joseph Borja commented yes other than the need for actual manpower to go out and physically inspect the site you could get a list of Land Trust applicants who received leases from 2002 backwards.

Commissioner Perez commented that in that way those are registered property and if they are not being used within that 5 year gap is there anything in the law that indicates that the property when issued must be developed within 5 years time?

Joseph Borja commented I believe the law says must be developed within 3 years after the installation of infrastructure.

Commissioner Perez inquired on how many land agents take care of only residential.

Joseph Borja commented one. Right now the administrative operations as well as the land agent part is being revamped. Two of the land agents are being trained, one will be stationed at the Land Trust and when the two land agents being trained are done they will switch places. There is also recruitment effort out to hire and the GG1 to recruit 2 more land agents. Land Management I understand is also detailing by assignment two land agents from Dept. of Land Management. Hopefully in another 30 days you would have 6 land agents doing work of the Commission.

Commissioner Perez suggested that if you have 5 land agents within the next 30 days that hopefully by our next meeting that assigning these 5 people to all the registered land that were issued to make an inspection to check on how many are being developed and how many are not developed. I think it is time that this Commission put a stop on a place that is leased out and still undeveloped because there are thousands of people that are still waiting for property and there are some people who are issued property and still not developed. I think I'm aware of the under staff but is there a possibility that we can generate a listing of all the residential property that had been issued and indicate what is developed and what is not developed and how long ago since this property had been issued? So we have an idea who we could say your lease has been terminated, you default the lease because you have not developed it especially with those that have power and water. Of course your land agent will say the reason why they haven't developed it because there is no water and power and I can understand but a place that

has full utilities and still not even a post that yes they are beginning to develop the property. Maybe this Commission is going to say enough is enough and say you asked for property and you haven't done anything.

Joseph Borja commented that rather than a motion without objection I'll consider that a policy of the Commission and report back on that process that Commissioner Perez has stated. Certainly we can generate the list and we can report back to you and say yes we have enough land agents to do it or we don't.

Commissioner Calvo commented that he agrees with Commissioner Perez in those areas where people were given property and we have to take it on a case by case whether there is water and power, not in an area where there is no water and power. Maybe Legal Counsel can look into this that if a lease was given to them 10 years ago and nothing has been developed I don't think this Commission should be held accountable in terminating that lease because they haven't fulfilled their promises but we have fulfilled our promises because they asked for that piece of property. Will it be a challenge issue on that?

Legal Counsel Ike Aguigui commented that it is governed by the terms of the lease so do the leases say that something has to be done in a certain time?

Joseph Borja commented I believe the rules and regulations say that you have to develop the property within 3 years after the infrastructure is in and maybe you might want to review that because before they put those in the ideal thing is to have your property surveyed.

Commissioner Perez commented that she is concerned especially on the properties that have water and power. Of course I will not impose heavily on a place that is not even developed there's not even access to the property.

Commissioner Calvo commented so what we really want to know is places that have access to utilities.

Commissioner Perez commented I know that there are some people who got property and surveyed it but they don't have access to go into their property so we should not hold them accountable for not building but those people who have roads, power and water and it is still not developed. That's the property I am talking about.

Chairman Damian commented that Mr. Aguigui has the requests that the Commission is asking which is the ability of the Commission to go ahead and insert regulations regarding rules and regulations for land and whether or not we need legislative action or not. But I believe Mr. Borja is correct on his assessment on that we are authorized and empowered to go ahead and make those decisions and changes. Anyway we want to make sure that we get those legal advise from you regarding those issues so when we come back we can be able to move and make some changes and updates on rules and regulations governing the use and lease of properties whether its agricultural or residential.

- **Repair Of DLM Survey Equipment**

Joseph Borja commented that Dept. of Land Management has been surveying the subdivision up in Adacao and is also assisting in other surveys that involve the Chamorro Land Trust properties. Recently one of their survey equipment broke down and has been

repaired. Because of the cash and financial situation with the Government we were not able to pay that vendor quickly enough under our terms and that vendor has threatened to resale the equipment unless we pay for the repair by February 28. I am asking permission from the Commission to approve payment of the repair of that survey equipment which is used, is being use and will be used for the Chamorro Land Trust Commission subdivision survey. The bill amount is approximately $1,258 and I think it is well worth approximately $1,300 to repair that equipment. The Chamorro Land Trust Commission benefits immensely from that survey equipment.

Commissioner Calvo made a motion to approve payment of $1,258 to cover repair cost of the Dept. of Land Management survey equipment. Commissioner Matanane seconded the motion.

Discussion on the motion:
Commissioner Matanane inquired on what kind of equipment is it.

Joseph Borja commented the transit and the batteries. The batteries have run out and cannot be recharged anymore so what they had to do was send the batteries back and take out the old cells. It is basically for recharging of the batteries.

Commissioner Matanane inquired if it is cheaper to put the acid in the battery or get a new battery.

Joseph Borja commented that the system is old enough that they don't sell the batteries anymore and the new batteries would have cost approximately $5,000.

Joseph Borja requested if the Commission can add on some cents to the motion.

Commissioner Calvo withdrew his original motion and Commissioner Matanane withdrew his second on the motion.

Commissioner Calvo made a motion to approve payment not to exceed $1,300 to cover cost of repair of Dept. of Land Management's survey equipment. Commissioner Matanane seconded the motion. There were no objections, MOTION PASSED.

VI. PUBLIC COMMENTS

Ceferina Espiritu (representing her mother) – My brother was reassigned off-island for his job and he had a land up in Chalan Luta, Latte Heights and he paid for 99 years. I noticed that you guys were talking about power and water it has his name on it so my brother that's off-island asked my mom and I to take care of his place until he comes back from his job site. Apparently there's an individual that's just been staying there just for the meantime until he finds his own place which was given a land next door to my brother's place. They had told him to survey his land but apparently things are not being done. My mom and I had called for GPD to remove this individual that apparently this individual was giving us a hard time. I don't know if its 30 days that you guys are asking for survey or I think I believe 60 days but this individual is claiming that he has so much stuff in his house that they have to give him time. Apparently on December 14, 2006 a letter was given to them by Mr. Borja for them to just stay there in the meantime until they find their own place. My brother had paid for his land for 99 years, the land has been surveyed and I

have the receipt and the map and all the documents. The only document that this individual has which is Ray Calara and Cherlyden Calara is only this memo from Mr. Borja.

Chairman Damian commented so your issue right now is you need to occupy that property of your brother and do what ever is necessary to keep it going until your brother returns.

Ceferina Espiritu – Apparently my brother is coming back but we need to start cleaning up the place because they had some plants around the area. The house was fully furnished the only thing that wasn't there was an icebox, washer. Everything was there from the bed, couch, tupperwares, blankets everything was furnished there but when they stayed there for the meantime because they were chased out by the brother when they were staying in Macheche. My mom went ahead and made them stay until they find their own place it is not permanent. My brother has all the receipts for the materials that he built the house including the post for the power and water.

Chairman Damian commented so now you have a problem to have them move out of the place.

Ceferina Espiritu commented right.

Joseph Borja inquired on what is your brother's name.

Ceferina Espiritu commented his name is Nicomedes Junior Tass Espiritu.

Commissioner Calvo inquired on how long has he been there.

Ceferina Espiritu commented he has been there long.

Commissioner Calvo inquired if the family staying there now are of any relation to them.

Ceferina Espiritu commented actually he's my cousin but he doesn't respect my mom at all because he even said he is going to call the cops on my mom for my mom to get out from that place.

Commissioner Calvo so he's claiming that he has full rights to the property.

Ceferina Espiritu commented right which he doesn't.

Commissioner Calvo commented so your brother was just being a good Samaritan to let them stay there for the time being until they find a place. How long has that been?

Ceferina Espiritu commented about 2-3 years.

Commissioner Calvo commented so I think it is warranted, 3 years don't tell me you can't find a place.

Ceferina Espiritu commented he was given land right next door to her brother's place.

Commissioner Calvo commented so if he was given land then tell him to move to his own lot.

Ceferina Espiritu commented they did but he is giving them a hard time so that is the reason why she came on behalf of her mom. I came down to see if I could be assisted to ask for some answers here. Every time we come here we want to see the Director then they say he is in a meeting. My mom and I are just getting frustrated my dad past away in 2005 and I'm trying my very best to help my mom because my brother had asked my mom and I to take care of the place.

Commissioner Calvo inquired before your brother left did he tell your cousin.

Ceferina Espiritu commented it wasn't my brother who relocated for his job made him stay there it was my other brother who felt sorry for him because his brother chased him out. My oldest brother asked my mom to just let him stay there for the meantime until they find their own place.

Joseph Borja commented so everybody is letting everybody stay without asking the real owner which is the Commission.

Ceferina Espiritu commented if you're homeless, there are kids that needs to be until the meantime.

Commissioner Calvo commented homeless by home but not homeless in land so within the last 3 years if he had been staying there he could have taken some initiative to start cleaning the property and start building some sort of a structure. Right now what you're saying is you want them out of that place so they can move to their property.

Joseph Borja commented that the Calara people only had access to the lot next door in the last few months not 3 years. They had been living on that property for at least 3 years but their access to the lot next door was only granted by the Commission administratively through the process a few months ago. The staff is familiar with this case which is why I signed that letter because there are some anomalies to this case. For example, does your brother Nicomedes have any private property?

Ceferina Espiritu commented no he doesn't.

Joseph Borja commented that is contrary to what the staff has checked. Also there seems to be some sort of problem on this in that initially there was only one application and inquired what is the other brother's name.

Ceferina Espiritu commented the one staying next door is Ernesto.

Joseph Borja commented that initially it seemed that there was only one application and then all of a sudden there were two applications, two files to that. I would suggest that we call the staff before the Commission makes any decision on this to take a look at this issue because it is not as clear cut as somebody being on property for 3 years without permission. They had some sort of permission from the family not necessarily Nicomedes. It was Nicomedes's brother that let them stay there and the mother and not necessarily the person holding the lease. Somehow they have power bills and utility bills

in Calara's name. There is some staff questions as to how come there was one application and then all of a sudden there are two applications. The occupation of this property is not based on the first come first serve process it is based on previous occupancy. In other words these people were granted use of the property through the preoccupying sense and not that they are next in line. The solution to it would be for the Calara's to move next door to the lot that was assigned to them. I do know that they have engaged the services of a surveyor to do that and I believe they have every intention of moving out they just can't move out tomorrow. Given a little time I think the Commission staff can solve the problem by relocating the Calara's to the lot that they are now granted on there and will get a lease on it and then take a look at the situation with Nicomedes and his brother Ernesto as to how they got permission and how they got their lease. I would ask that the Commission leave it up to the staff but make the staff come to the next meeting so that this issue could be flushed out as to who owns the property.

Chairman Damian commented that it seems to me the final decision is on who ever is on that lease.

Legal Counsel Ike Aguigui commented that notwithstanding knowing anything about the facts of the case I would agree with Mr. Borja's assessment on the situation.

Chairman Damian commented to be able to get all the information in. What kind of timeline are we looking at?

Joseph Borja commented we can make a written report to the Commissioners individually no longer than 2 weeks and then when the Commission comes in to the meeting in another 4 weeks in 30 days they would have all that information as well as the land agents to make a decision. Joseph Borja inquired if her brother coming back in 30 days?

Ceferina Espiritu commented yes so that way we can start cleaning everything because I'm pretty sure there's like graffiti.

Joseph Borja commented that he would caution that if the Commission takes that event and if it is exactly what Ms. Espiritu says you would be making a family homeless at this particular point if you want them to go for eviction tomorrow. In any event I believe statute for eviction is a minimum of 30 days I believe even in a private apartment. I think the Commission staff can solve this situation within 30 days.

Chairman Damian informed Ms. Espiritu that the Commission is not able to give her the information she needs now but he can tell her that the case has moved and there's no longer inactivity on it there is activity as you heard from Mr. Borja. There are statutes that prohibit us from moving anybody out less than 30 days notice.

Ceferina Espiritu commented that they did give them 30 days so many times and as of this letter of December 14 this is like a notice and it did state down how many days and it is already March.

Legal Counsel Ike Aguigui commented that to clarify with regards to the Chairman's comments not that its in any particular way 30 days its just that there is a legal process so I think that general statement is what you intended.

Chairman Damian commented right.

Joseph Borja read the letter that Serefina Espiritu brought to the Commission which is a letter from the Administrative Director of the Chamorro Land Trust to the Chief of Police, Guam Police Department attention Dededo Precinct.
Subject: Continued Occupancy Cherylden Calara.
Please be advised that Ms. Cherlyden Calara and her family are authorized to continue occupancy of that residential structure located on Lot 5402-R5NEW, Municipality of Mangilao. Ms. Calara and her family will continue to occupy above structure and lot until such time the issue and claim by Ms. Mary Espiritu is resolved.
Yes this letter was issued on December 14 however a week later, December 22nd there was a change in administration of the Commission in terms of the Director and the new Director has decided to get input from the staff before he makes a final resolution on this. I am familiar and I do believe that Ms.Calara and her family do want to exit from the residential structure that the Espiritus are claiming because they don't want any physical violence problems which is why this letter was sent. The other option that we would have would be to evict those people physically the next day which will create at least a homeless situation on that. Since Nicomedes Espiritu had not occupied the property and used the structure for 3 years having previously given permission, someone having given permission to the Calara family to stay there and at least for the previous 3 years Mr. Espiritu had no need of that structure because he wasn't living on Guam. Some research that Commission staff had done seem to indicate that Nicomedes Espiritu may have some property in the Takano subdivision area, a residential lot. It was the staff balancing out someone that has access to a residential lot as to someone who may be made homeless if we had evicted them the next week or the next day.

Chairman Damian inquired if that was a judgement call and not a policy of the Trust.

Joseph Borja commented that was a judgement call.

Ceferina Espiritu commented that the Takano property belongs to her brother Ernie but that is given to his wife and his kids. My brother has no access to that land at all.

Joseph Borja commented that was the other issue although that was Ernesto that had that situation. Like I said there was one application that came in and then all of a sudden there were two applications.

Chairman Damian commented that sounds to him that's a problem at the Trust. How could those files come in if there was only one now there's two?

Joseph Borja commented and that is what we are checking.

Chairman Damian informed Ms. Espiritu that action has started to take place to give her resolution to this problem. Please allow us the timeframe that we need not only to take care of the administrative part at the Trust level but also to be able to take the necessary steps in order for the people who are there now to vacate the premise so that your brother and his family can get back on the premise. We're asking for your patience and indulgence at least until the next meeting so that we can give you closure on this final resolution.

Ceferina Espiritu inquired if there is a letter that is going to be sent to him.

Chairman Damian commented when the information is finished and all of that is in place and the administrative director feels that he has everything he needs then a letter would be more than likely drafted and sent notifying what the findings are. We hope to have this action done in 30 days or less.

Ceferina Espiritu inquired if the Commission would also be notifying herself and her mom.

Chairman Damian commented yes and also the party occupying the property now.

Alicia Pinaula – I have an existing surveyed map but I have a problem with it because my surveyor has found a 40 feet easement. I'm located in Latte Heights and the road that this easement is showing is in the middle of the jungle and there is a bus stop a street light also my water meter, the pipe, plants and construction materials and it took my driveway into the house. The land is about 1 acre with the easement. I've gone to Land Management and I was advised to come to Chamorro Land Trust and see if I can get some resolution regarding the easement and I'm hoping that I get some assistance since the land is already surveyed. I paid the surveyor $1, 100 and with the easement taking my driveway into my house that created a problem. I'm requesting if the existing map that I have here and being processed at Land Management if they can eliminate the easement on the map so that I can make use of that. Also to include that way back in 1980 when I first got the lot from Land Management they told me that where the water meter is at the pipeline that is my boundary so when they surveyed it there was an easement. When they made the new road, Carnation Avenue and with Latte Heights housing because there was no Latte Plantation housing at that time that they no longer used this. I bought the house from Ms. Salas and they moved in on 1975 and there was never a road there. I moved in on 1980 and there is never a road there just jungle but there was a highway connecting from Latte Heights to the back road Route 15. Because of this situation and the legal technicality behind which is that the water meter and everything else and my driveway I'm hoping that you guys can authorize or give me the easement so that the scope of work won't cost me so much money by the surveyor surveying it all over again. If you give me the easement and then they are going to make it 1 acre he has to redo the survey and that is going to cost me alot of money. It's like costing me another $1,100. In lieu of that I was hoping that you guys can what is surveyed now the existing survey on the map showing that the acreage plus the 40 feet easement if you guys can give me that to alleviate that expenditure problem and because of my necessity that is on that easement. I'm hoping that you could authorize me and Land Management to go ahead to have the surveyor erase the easement on the map.

Joseph Borja commented that he had met with Ms. Pinaula, Land Management and Land Trust on this. Where Carnation Road is now is really not where the original road was. Carnation Road was put in because of the Latte Heights subdivision and also when it comes to the intersection with Route 15 rather than have an off-set of the intersection what highway planning did is they decided to make it a cross intersection. It uses up less land than a staggered intersection. However, the easement that was abandoned no need for it now it doesn't service anybody is still on the books as a legally documented easement. If the easement is removed it not only benefits Ms. Pinaula by not having to do two surveys. Ms. Pinaula is actually occupying a 2 acre area even previous to the implementation of the Land Trust way back in 1980 under the Land Use Permit program

she is grandfathered into the lot. When they did a survey for her 2 acre portion that she was occupying she found out that there is an easement that separates into 1 acre pieces. Under the land use permit the lots were not surveyed and now that Ms. Pinaula took the initiative to survey her property she found out that there is an easement on the side of her and on the easement behind her. Her problem of not being able to reduce or delete that easement is by law. The deletion of easement has to go through the Guam Land Use Commission and can only be requested by the owner of the property. Ms. Pinaula has a lease already but the property does not belong to her so she cannot really make an appearance before the Land Use Commission to request for that easement. What I would suggest we do is the Commission approve the deletion of easement by the Board and authorize the Director of the Chamorro Land Trust Commission to go before the Land Use Commission to request for that. If you do that it does two positive things, one is that it makes more land available for the Commission and it will help Ms. Pinaula to get her two acres that she originally occupied in one lease. Almost 3,800 square meters would be freed up by deleting the easement.

Commissioner Perez inquired if we eliminate that easement would it bother the other lots.

Joseph Borja commented no the lot on the bottom has road side frontage.

Chairman Damian commented that we will go on record to authorize the Administrative Director to go before the Guam Land Use Commission to request for the deletion of the easement.

Commissioner Matanane made a motion to authorize the Administrative Director to go before the Guam Land Use Commission to request for the deletion of easement. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.

Chairman Damian informed Ms. Pinaula that the Commission will be contacting her when it goes before the Guam Land Use Commission so she would be aware and appraised of what needs to be done in order to provide resolution to her dilemma.

VII. EXECUTIVE SESSION

Personnel issues discussed.

VIII. ADJOURNMENT

Meeting adjourned at 6:55pm.

Transcribed by: Teresa Topasna
Teresa T. Topasna
WPSII, DLM
Date: 3/12/07