Chamorro Land Trust Commission
(Kumision Inangokkon Tano' Chamoru)

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Governor of Guåhan

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Commission Members

Oscar A. Calvo
Commissioner

David J. Matanane
Commissioner

Michael J B. Borja
Commissioner

Amanda L.G. Santos
Commissioner

(Vacant)
Commissioner

Monte Mafnas
Administrative Director

Rev. 06/13/2011

COMMISSION MEETING MINUTES
Guam Housing Corporation Conference Room
5th Flr., ITC Building, Tamuning
Thursday, October 20, 2011; 1pm - 3pm

I. CALL TO ORDER
Meeting was called to order at 1pm by Acting Chairman Oscar Calvo.

II. ROLL CALL
Present were Acting Chairman Oscar Calvo, Vice-Chairman David Matanane, Commissioner Michael Borja, Commissioner Amanda Santos and Administrative Director Monte Mafnas.

III. APPROVAL OF MINUTES (September 15, 2011)
Commissioner Michael Borja moved to approve the minutes of September 15, 2011 subject to corrections. Vice-Chairman David Matanane seconded the motion. There were no objections, MOTION PASSED.

IV. PUBLIC COMMENTS - None.

V. OLD BUSINESS
1. International Bridge & Construction Marianas, Inc.
Administrative Director Monte Mafnas - Last board meeting or two board meetings ago Mr. Toelkes, we all agreed that we are going to resolve the pending rent and that he'll be back on the month of October. And you know he's back and we haven't met yet to discuss the unpaid amount but now that he's here I welcome you at 7:59 if you want in my office Monday morning or tomorrow morning.

William Toelkes - Tomorrow morning at 8 o'clock yeah that's fine.

Administrative Director Monte Mafnas - Whatever is convenient for you sir so we can commence the discussion as to the amount to be paid to Chamorro Land Trust, correct?

Acting Chairman Oscar Calvo - Well we talked about that in the last two board meetings and I know he had to leave off-island and I did get a call from I don't know if it's your secretary yesterday but I did return my call back but unfortunately she never responded back to me so I just want it for the record that I did call back to you know follow through on that.

William Toelkes - Okay I appreciate that.

Administrative Director Monte Mafnas - We thank you for making time to come here Mr. Toelkes.

William Toelkes - Well it's something that I want to get this off there's as far as we're concerned it's and I want you to understand and the Board to understand it when we made the original agreement on an exchange basis it makes a much different situation for us than it does if we start paying cash rent. So when we talk to each other and negotiate I would like to keep that in mind.

Administrative Director Monte Mafnas - It's quite unfortunate the intent was pure that we cannot accept in-kind consideration only the Governor has the authority. I did mention it to the Governor but in passing we have not, he has not..(interrupted).

William Toelkes - Resolved it, okay. Well that's good I'll talk to you Monday morning at 8 o'clock.

Administrative Director Monte Mafnas - Thank you Mr. Toelkes.

2. Layao Enterprises

Administrative Director Monte Mafnas - Next on the agenda is Layao Enterprises, Mr. Quintanilla and Layao, they said they were going to come to the board meeting and unfortunately they didn't.

3. Ana Ishmael

Administrative Director Monte Mafnas - I forgot under Old Business was Ishmael, we had approved this land designation back in April the first meeting. She will come and tell me which site she wants simply because the husband had a Land Use Permit and the husband put in the infrastructure. So upon receiving that designated area I want to bring it back to the Board for final approval okay.

VI. NEW BUSINESS

1. Ko'Ku Recycling - Continuation/termination of license agreement

Administrative Director Monte Mafnas - As you know Mr. Bello has been in the recycling business for decades and he had a license agreement to utilize Lot 5219-1-1 in the municipality of Barrigada. He's here to demonstrate why he should continue the lease or elect not to demonstrate or not to go forward.

Benny Bello - Well just to give you kind of a history back when we did this thing we were initiating a recycling program. Actually there's no recycling program on Guam at that time we were the pioneers of this thing and what happened was we were working the island wide clean up and to remove the metallic waste. We actually removed about fifteen ships of metallic waste from Guam and that's over fifty thousand vehicles, one-hundred and fifty thousand refrigerators and whatnot. This was back in 1998 when we first started. With the island wide clean up we were also looking for places to process and we were referred to Chamorro Land Trust and they offered Route 16 initially and we had a solid waste permit to

do processing and with that site we started a tire collection of processing. But the other problem that occurred was there was a big problem in Dededo and I showed a copy of this article in business news it says that Dededo could be the next Ordot which was one of the super pointing problems and so the metal market at that time it was really at the lowest ever it was like a hundred dollars a ton. Just to give you an example today's market is like over four hundred dollars a ton, four times more of the cost. It was impossible to process and remove material at that time unless it's subsidized. At that time they didn't have any funds so we worked out an agreement to use Route 16 in exchange for assisting in cleaning up Dededo. So we were able to receive a license agreement from Chamorro Land Trust that shows that if we remove certain materials and actually it was approximately fifty thousand tons, not just metal we're talking about trash, snakes, I mean you know oil, tires, everything you can imagine was put into that site. So we actually cleaned that up over a period of time up to 2006 when I finally was talking at that time to Mr. Elliott your Director at the time and we were able to get a clean bill of health with you saying we're done and then he turned it over to a couple of other processing groups that were our subcontractors, Mr. Global Daniel Chu and another guy Mai I believe. So they ended up continuing the program. Now with Route 16 coming back to Route 16 actually we had some problems with Route 16 because there was arson on the site and it created a big problem for us because I mean some people just said oh they burned the tires to get rid of it. Let me tell you that is the worst thing we could do because it created so much cost for us. We spent over four-hundred thousand dollars because two fires it was an arson fire. We had an idea who it was but we couldn't convict. In order to resolve fire we had to bring in truck loads of gravel so we had to pay for the gravel and pay for the twenty four hours of smoldering I mean suffocating the fire. Even that we spent over three hundred some thousand dollars on both fires to smother them. But in the meantime we also were baling tires so we were the first group on Guam to actually have a solution for the tires which we were baling the tires. And we have some tires on the site and we were actually looking in working with Public Works to get the engineering design for the tires to be used as a product. At the time just like the metal market the tire market was in the negative situation. So with the tire fire we had to wait because in order to take care of the tire mitigation issues we had to work with Guam EPA to come up with some plans. We worked with GEMS, with Joe Esteves he is the owner of GEMS, he provided us some concept of remediation issues. We could go over a five year period and mix it in some hard fill and things like that. So we had that as a probable solution and then the other one is to continue baling and we have done a lot of the baling. There was actually ninety percent of the tires at that site are baled. I don't know if you've ever looked up there but that place we just kind of left it alone because we wanted to wait until the time was right and I have been working with GEMS and we've been working with Bali Steel. We have some commitments from them to do the baling of the tires because now it's a positive market so we can actually get rid of the problem and we can go through the process for providing a long term solution to the site. As you know the site was a quarry a hole and actually a while back it was actually used for the demolition pit and what they did is they dumped all the stuff even from the hospital and so what we actually were suggesting was that we could use it as arc weld and maybe make it a usable property for all concerned because in the end our lease is only probably another ten years max. So for us to do anything substantial for the property except maybe get it into a usable solution is maybe the best solution to have. So the best solution is to cap it, fill it up and make sure all the issues

regarding the Guam EPA and whatever issues regarding remediation are resolved and then go from there.

Acting Chairman Oscar Calvo - You talk about capping it and covering it up, have you ever done those things?

Benny Bello - Yes, we're doing it with the site we have a hard fill permit.

Acting Chairman Oscar Calvo - No but I mean you know because I have been up in that dump site so many times too and I know that place I've been there. And I know there are a lot of tires that are on there okay and for whatever reason I know that you also and quote me if I'm wrong on this Monte they were cited by the EPA back then too right?

Administrative Director Monte Mafnas - Yes.

Acting Chairman Oscar Calvo - And EPA has to do a clean up on that area.

Benny Bello - The reason why we were cited there was an oversight on behalf of that's why we didn't even get fined because we were asked by EPA to work with them with the tire solution we didn't really want to get into the tire business. When Ordot caught on fire it's primarily because of the thirty, forty years of tires that were being brought up there and caught on fire. So all the tires are going all over the place so that's why Chamorro not just Chamorro Land Trust, EPA and those guys came to us and said look can you help us with the tire problems. So we formed the tire association of Guam, got all the tire dealers to work together that's why they gave us the site. And so the tires problem became a lot more than what even EPA required for that because they gave us a permit for so many tires. The only citing that we had for that site was that we took more than what we had the permit for. But I can verify that with Fred Castro but we were working with them the whole time. We have plans everything that was going we just over the amount because the problem was the island and my situation. It wasn't really because we did anything illegal okay.

Acting Chairman Oscar Calvo - So basically today what are you actually here for today?

Administrative Director Monte Mafnas - I met with Mr. Bello on the exercise, cleans it but he wants the rent for the next twenty years or two he shows his due diligence and he tried to do this and Board disapproves it then he wants to be held harmless from adhering to the lease. Is that correct?

Benny Bello - Well I think it's a little different, what I'm saying is this number one, our lease according to the license agreement we've already paid it in full by far. Our credit if you look at the license agreement already gave a credit for twenty five thousand tons of removal of material in Dededo which gives us about a seven million dollar credit. And so the lease payment there is even to the twenty years is less than a million dollars so there's no way we can even get a credit with the seven million dollars of work that we did. That's the top my first point I wanted to make. We've paid our dues for the site and regarding the property we have been trying to work and we've been in contact with the Directors all along from Joe

Borja to Mr. Garcia to Tom Elliott. You can call them in and they'll testify. We've talked to them about different things. We can't do too much with the site until the market is there and we have arrangements with Bali Steel to work with the tires, we have access to the baling, we can remove the stuff, we need to get a permit for hard fill which we already were approved to do before. But to do that at that time a few years back the market and the situation was not prudent. So we just left things status quo, we took care of our issues and there hasn't been a problem on the site at all over the last few years.

Acting Chairman Oscar Calvo - You stated that Mr. Borja or Mr. Garcia didn't have the time and date to see you back then?

Benny Bello - Yes as a matter of fact we've had our attorney try to call him because I wanted to make sure that all the issues regarding the site were always on working. When we talked to Mr. Elliott the whole time we were talking to Mr. Elliott our primary concern was to make sure we resolve all our issues to get out of Dededo so that you guys can turn it over to the new tenants and so we did that and then they said well we wanted to address to Route 16. In order to address Route 16 we needed to come to a meeting of the minds that look in order to resolve this problem all we need to do is do is to work with the Board to make sure that all the issues that both sites have are covered and that we'll be able to move forward in whatever direction on this site.

Acting Chairman Oscar Calvo - Actually just getting back to that point and I think we have this on record on the last because I have been on the Board for Chamorro Land Trust for over a couple of years and one of the issues that I did speak on with Mr. Garcia and even with Mr. Borja about is that place up there because of the complaints from the especially the manamko up there where the elderly stays anyway and I don't want to pin point who's who and who's wrong back on this okay. What if Mr. Garcia didn't talk to you or Mr. Borja for that matter I can't speak for them back then but I know for a fact that I did follow this issue back then and I made the effort to go into those places. And I made the effort in making sure that we get a hold of you but for whatever reason back then there was never they just said they couldn't get a hold of you and I don't want to assume to that.

Administrative Director Monte Mafnas - Mr. Bello can I just mention excuse me for interrupting but I don't think it's fair that you chastise Mr. Borja. Who signed your lease Mr. Bello?

Benny Bello - No I didn't chastise.

Administrative Director Monte Mafnas - No I'm just stating you know he's not here to defend himself but who signed your lease Mr. Bello?

Benny Bello - Mr. Borja.

Administrative Director Monte Mafnas - So why would he not give you time of day?

Attorney Fred Horecky - I have been working with Mr. Bello since about 2007and actually I started discussions in 2008 with Mr. Borja he was very helpful. So I don't blame Mr. Borja and actually we had a very good understanding. I have two letters here that I'm going to give you which kind of details the history of what's going on. I've written Mr. Borja in June 2008. After my letter we had meetings and we actually had kind of a game plan of moving forward. But then the problem, one problem here is the license agreement itself because it talks about this credit but the amount of credit is not exactly identified. So I know you have a concern rightfully about what's the amount of the lease payment. Well I think Mr. Bello is correct that under the license if you look at it, it does give a credit which we calculate to be seven point five million. So probably starting in November of last year I must have made six or eight efforts to contact Mr. Garcia. I called him, I wrote a letter in writing where I proposed amendments, a first amendment to the license agreement that will clarify this issue of how much exactly, what is the credit that Mr. Bello gets. So I've made a lot of efforts on that. I even went so far as to go to the First Lady Joann Camacho and called her and she said she talked to Mr. Garcia to get him to call me but for one reason or another and I really don't think it was our fault we tried to make contact, we gave a written proposal for amending the license agreement but this was never responded to. So I don't know what more we could have done then but the point is if you look at the history on this really there have been a lot of efforts by us working with EPA. We have a report that was prepared by an environmental consultant Orco to Mr. Tom Polovich's company. We've done a lot to try to work on the remediation but the main problem at this point is to sit down about the license agreement and to try to straighten out some of those issues. So what I would propose you know I was just informed by the way by Mr. Bello that questions have been raised I haven't seen anything in writing but I hadn't had an opportunity to sit down with my friend Mr. Mesa and (interrupted).

Administrative Director Monte Mafnas - I'm the wrong guy I'm a Mafnas.

Attorney Fred Horecky - I mean I'm sorry Mr. Mafnas, who we know right we know each other for many years so sorry. But I think that we could sit down, take care of the license agreement. I have made some proposals about an amendment here to the license agreement which I think would clarify those issues and we can negotiate. I mean I always try to be fair and give credit for the work that KoKu did on this. So I want to give a copy just to make sure that those are a part of the files here.

Benny Bello - Could I just clarify one thing, I not saying that as Mr. Mafnas had mentioned that I'm trying to bad mouth Mr. Borja, Mr. Borja is a real, I've known Mr. Borja since we were little. I don't have any problems what I'm saying is that we've tried to resolve some of the problems and we still haven't done that but we have been trying to make contact. And I personally was never contacted by this new Mr. Mafnas but I was the one who went to him to his office.

Administrative Director Monte Mafnas - That is correct.

Benny Bello - I was the one who went, nobody called me, nobody talked to me. I went there and the same thing I wanted to try to make sure, we got a lot of work to do, there's a

lot of money that's got to be spent. I want to make sure that I'm protected you know what I'm saying. We're going to go out there and spend another two, three hundred thousand dollars to get this thing back where it needs to be I want to make sure that I'm okay. That's all I'm asking.

Acting Chairman Oscar Calvo - So at the end of the day what are you actually here for on the Board? What do you really want from the Board?

Attorney Fred Horecky - I'd like to meet with Mr. Mafnas. I think we need a meeting to sit down and look at the license agreement. The copy I've given to you I've proposed an amendment to the agreement. If that's not acceptable fine let's just talk about how because one of the issues again is the rent and do you agree that he cleared twenty thousand cubic yards of the metal the scrap metal, what's the amount of credit that he should get? We need to resolve that. But there were a couple of other issues about the license agreement as to when it actually started. I don't want to get into the history of that but I think if we sit down, you know we clarify that then we get a game plan because we know we need to proceed ahead with remediation. We have made efforts but I think we need to straighten out the license agreement then we can meet again with our contractors, with EPA and I think we can make a lot of progress because there's a lot of groundwork that weighs. So I would suggest a meeting I think that's the first step and then we can decide how we can better proceed.

Vice-Chairman David Matanane - I just got two questions. You're a partner of Ko'Ku?

Benny Bello - Yes.

Vice-Chairman David Matanane - Second, that seven point five million do you have documentation to substantiate the seven point five?

Benny Bello - Yes it's in the license agreement.

Vice-Chairman David Matanane - Well you know if you move stuff you have to add up the stuff in order to get to that point. Now I would like to see documentations on how did you arrive to seven point five not on the lease agreement. It concerns items that you move around in order for you to get to that seven point five. So all I'm asking is a documentation as to how did you arrive at seven point five. The lease doesn't state that you know, we need documentation that you have moved items to that extent to arrive at seven point five. All I'm asking is documentation.

Benny Bello - I can answer that if you look at before the lease what happened was there was a verbal and written go ahead to enter the premises and work until we work out a license agreement. During that period of time we had submitted this was years ago okay we submitted all the documentation for the removal of the material. It was calculated from that time of about fifty thousand cubic yards, it says on the license agreement. But the time we did the license agreement we had already submitted we already submitted to the Chamorro Land Trust that there was an excess of twenty five thousand already removed

and that's what it says in the license agreement. At this date when we signed the agreement it says the Chamorro Land Trust agrees that we already removed more than twenty five thousand tons.

Vice-Chairman David Matanane - And that constitutes the seven point five?

Benny Bello - And that constitutes the seven point five.

Vice-Chairman David Matanane - Well you know you still have document things to arrive to that.

Benny Bello - Yeah we did that's what I'm saying.

Vice-Chairman David Matanane - You understand Mr. Horecky where I'm coming from?

Attorney Fred Horecky - Oh I do exactly, exactly and in my letter to Mr. Garcia I did attach the calculation. The license agreement itself provided as licensee has been providing clean up services for Lot 10122-15 Dededo the CLTC shall accept his credit. All metallic waste removed from Lot 10122 to date which has been determined and agreed to be in excess of twenty five thousand metric tons and the CLTC properties clean up shall be credited at twenty dollars per cubic yard rate. So if you figure, you know I did a calculation here which kind of show how you come out.

Vice-Chairman David Matanane - Okay so that twenty five thousand metric tons times..(interrupted).

Attorney Fred Horecky - Metrics tons and one metric ton is fifteen cubic yards. So I figure that's three hundred and seventy five cubic yards and at twenty dollars per cubic yard is seven point five million.

Vice-Chairman David Matanane - How much per cubic yard are you charging?

Attorney Fred Horecky - That was set at twenty dollars per cubic yard in the license.

Vice-Chairman David Matanane - And multiply that to get to that seven point five and so it's been determined that it is seven point five in the on slot.

Attorney Fred Horecky - Well I believe so you know if you want to discuss that with us, see that's one thing we wanted to clarify.

Vice-Chairman David Matanane - You know I'm just trying to figure this thing out because here we are kind of bring out a figure any figure that I feel you know. And at that time as Mr. Bello was stating that it was a very low amount and not at this time and age.

Benny Bello - Let me clarify a couple of things number one you made a point. The twenty dollar per cubic yard figure was determined because we were doing work with FEMA.

Administrative Director Monte Mafnas - Its twenty dollars per ton not per cubic yard.

Benny Bello - But see in order to get your tonnage rate we couldn't go with the tonnage rate because that was not a number that we could pay. So we had to convert it to a cubic yard price which for every cubic yard that's where we got our number.

Vice-Chairman David Matanane - How many tons is that?

Administrative Director Monte Mafnas - Twenty five thousand I think.

Vice-Chairman David Matanane - Has it been weighed?

Benny Bello - Yes and I can confirm this because we took out the ships and we took the ships directly from..(interrupted).

Administrative Director Monte Mafnas - That's what I think the Commissioners trying to get information you know. Do you have a bill of lading?

Benny Bello - Yes.

Vice-Chairman David Matanane - Where's the paper trail? All I'm asking is the paper trail so we can you know if it's lacking maybe a thousand dollars that's okay but if you're talking millions then we have a concern.

Benny Bello - But just to go back to part of what you're saying the market at that time was a hundred dollars a ton. In order to remove the materials to process the materials takes about maybe fifty five dollars a ton. In order to transport the materials, in order to ship it which over a hundred dollars a ton that's one of the reasons why it's not a positive situation at the time so that's why it needed to be either subsidized at that time. Now there's no need for that and lastly in referring to your tonnage rate at the scrap price at the scrap price at a hundred dollars it just covers the cost of the removing of material. That's all it did.

Vice-Chairman David Matanane - You're talking about now.

Benny Bello - No, no at that time.

Vice-Chairman David Matanane - At that time okay all I'm asking Mr. Bello is the documentations. How much did you send out and the shipping manifest or what you call it and probably we can come to a figure that's more..(interrupted).

Administrative Director Monte Mafnas - Or a picture that depicts a thousand of scrap metal or cars or whatever you know something to demonstrate that.

Benny Bello - I have all that, I have all that.

Vice-Chairman David Matanane - All we are asking is the documentations that you have made that.

Administrative Director Monte Mafnas - Just to be fair.

Benny Bello - I can provide all that.

Acting Chairman Oscar Calvo - Mr. Horecky on the lease contract where it was signed by Mr. Borja you know you stated that the agreeable would be and that was only at the time assuming that that would be the amount of looking at what seven million dollars at the time.

Benny Bello - We actually never came up with a figure.

Acting Chairman Oscar Calvo - I'm glad you brought that..(interrupted).

Benny Bello - That's what I'm asking.

Acting Chairman Oscar Calvo - That's exactly what I wanted you to say there was an actual no figure to this. So the seven mil could be, it could be a five, it could be a four, it could be a three that's what.

Benny Bello - And we're willing to take one. I'm telling right on record I'm willing to take one because that's all I'm asking is for the credit on the lease.

Acting Chairman Oscar Calvo - That's what I wanted to find out from you because you keep saying seven mil, seven mil okay.

Benny Bello - No, no, I'm just saying that number was here.

Acting Chairman Oscar Calvo - Yeah but the way the lease was stated out it doesn't specifically says that that's the amount you know. So we got to narrow that down to and I know what you're coming from is the credit because if we were to go on a seven million dollar credit there will be zero balance. So now that we made that understanding that that seven digit number right now doesn't exist okay? Are you in agree with that Mr. Horecky?

Commissioner Michael Borja - Well I think that's what he wants is to sit down and discuss it.

Attorney Fred Horecky - If Mr. Bello would agree I would like to discuss it. I think the license agreement kind of suggested that we would get a certain amount of credit but it's less than absolutely.

Acting Chairman Oscar Calvo - Yeah and that's the faulty part that keeps coming back to me is that seven mil but do we really like what Mr. Matanane said do we really send out seven mil of tonnage? We don't know that okay.

Benny Bello - We said about forty thousand tons.

Acting Chairman Oscar Calvo - But just hypothetically in that scenario. So what the previous Board and signed that off is not saying that there will be a credit of seven million dollars. No so I want to make that stipulation and clear and understanding that that number that's not really I mean it may be but it doesn't mean that it coincides to that issue, okay?

Benny Bello - What I was hoping to try to do was make it a little simple because if the seven point..(interrupted).

Acting Chairman Oscar Calvo - That is the simplest way.

Benny Bello - Well no see because I'm not after the seven point five I'm not even after more than that. All I'm saying is if you take the rental amount for Route 16 which is around eighty thousand dollars a year and you take it over the course of twenty years it's less than two million dollars. It's one point something dollars and so all I'm saying is that I'm not asking for anything but please give us the credit for the rent the total and then if you give us the credit part..(interrupted).

Acting Chairman Oscar Calvo - But the disputing part of here is also there'll be some credit and also this credit.

Benny Bello - No I don't want credit any more credit than that. I just want credit on the lease and this is my position today if the Board is willing to hear that. That's all I'm saying is that I'm not after anymore because when we cleared the property and we removed and we settled the agreement with Mr. Tom Elliott he acknowledged and we can bring him in and we have the information we removed over forty thousand tons. That's way in excess of seven something million. I don't even want to go there all I want to go is back look guys all I want to do is I want to be able to clean up the yard and be able to get the use of the yard and you will honor this agreement that's all I want.

Commissioner Michael Borja - So this current property right now still has waste on it?

Acting Chairman Oscar Calvo - Yes.

Benny Bello - Yes.

Commissioner Michael Borja - And the amount of waste that's on there how long do you think it will take to remove the remaining? And I think it's all based on economics right now, if the price is right..(interrupted).

Benny Bello - Exactly.

Commissioner Michael Borja - But how long would it be?

Benny Bello - Well there's two things that could happen number one we've already baled ninety percent of the tires. So the tires are not actually a waste they're actually a use.

Commissioner Michael Borja - Define what you mean by bale.

Benny Bello - For every hundred fifty tires you can take the tires and then bale it into a bale form and you can use it as soil remediation, you can use it as hard fill, you can use it for different things as long as you get the permits for it. Now we have ninety percent of the tires there baled so there's only about ten percent. So the ten percent as long again was the issue was minor so we've been working with EPA and Apec and the rest of those guys. We're okay there's no problems. The biggest problem we have is there's some soil remediation. When I spoke to GEMS, Joe Esteves who has the company what they do is they do the remediation. The easiest way to do it is just put it on one side and just mix it in with some hard fill as you go along and you submit the plan with Guam EPA and what they do is they approve it and then that's what you do. But in order to do that I need a hard fill permit and I need to get all these things resolved. So that's why I wanted to make sure in order to go to EPA that everything is clear on this end so that I have to invest more money and I have to do these things and then my vision is to get this thing back to where it's usable for all of us. Like I said fix up the property, clean the property up and make even if it's a lay down yard turn it back to the Chamorro Land Trust in the future but just let me finish all..(interrupted).

Commissioner Michael Borja - But all of this too is as a result of an EPA clean up of the whole Barrigada Heights area.

Benny Bello - No, no, it's the whole island wide clean up.

Commissioner Michael Borja - Oh I thought, don't we have another guy up in the Barrigada Heights area?

Administrative Director Monte Mafnas - Yes.

Benny Bello - And on that issue there's two entities that are there. We've been silenced since the time of the fire. The other group that has some complaints and stuff is an auto group I think with Joe..(interrupted).

Administrative Director Monte Mafnas - JR Mateo.

Benny Bello - JR Mateo they're the ones that are actually more visible.

Acting Chairman Oscar Calvo - The other problem that we have on EPA is also because that's in the water lens area because that's right behind the Revenue and Tax area. Now to actually clean that out because there are some oil spill whatever in that area in those pits trust me I've been there and I went down there myself personally. I go to these places believe it or not I do inspect these places and I did go down there and there are some mechanical parts of a car, broken engines things like that okay. So I think what we need in cleaning that up is not just getting raw material to dump it down there.

Benny Bello - No we have to have a whole plan with EPA. We're going to work with a consulting environmental group to submit a plan and in order for that EPA has to monitor the whole clean up and for us to do the whole thing we have to work in..(interrupted).

Acting Chairman Oscar Calvo - So at the end of the day what are you, Mr. Monte?

Vice-Chairman David Matanane - Requesting to meet with Mr. Mafnas so we can iron out things.

Attorney Fred Horecky - I'm suggesting we meet in the near future, iron out the license and then we'll get a plan of what can we do, what kind of deadlines would you like, what can we work out so we can get this thing moving.

Commissioner Michael Borja - Go through the definitions and have justification, documentations for the things that's been shipped.

Vice-Chairman David Matanane - I think we should give them the opportunity to speak with Mr. Mafnas.

Administrative Director Monte Mafnas - One question Mr. Bello and Mr. Horecky, do you have the capacity to do this, fulfill what you are stating in writing?

Benny Bello - Yes.

Administrative Director Monte Mafnas - Okay.

Vice-Chairman David Matanane - Why don't you guys set up the appointment to see each other and then when you guys iron out stuff then we can come back and we can take a look at what you guys..(interrupted).

Attorney Fred Horecky - Can we set up a date now or would you like me to call you Monte?

Administrative Director Monte Mafnas - Tuesday.

Attorney Fred Horecky - What time?

Administrative Director Monte Mafnas - 8:30.

Benny Bello - Actually I'd like to say one last thing, no matter how Mr. Mafnas I really commend his efforts in doing what he's doing. I mean I think he's going out there and doing all this thing for the Chamorro Land Trust and look at what it's got, it's got me in front where I actually wanted to be all along. That's the honest to God truth and so what's happening with the cleaning up and this is great for the island and for me I don't want to be the one who's known that hey, I left these tires and did you know that Benny you know wait a minute. The last thing I want to do is to be in that type of position.

Acting Chairman Oscar Calvo - Actually that's already been..(interrupted).

Benny Bello - Yeah that's what I'm saying and that's why I'm here and that's why Fred's here okay.

Acting Chairman Oscar Calvo - I just want to state that for the record that you know that because I had a lot of angry point on this on the past and I went up there with Mr. Borja and I went up there with Mr. Garcia and I said what the heck are we doing about this. I get on top of these things and Monte knows that because I do go visit these sites and I want to make sure that I look at these sites and some of these areas. But work with Mr. Monte and then Mr. Monte will discuss on what the issues are okay. But just remember that seven digit number doesn't exist.

Benny Bello - Doesn't exist.

Acting Chairman Oscar Calvo - Okay, I just want to make sure.

Attorney Fred Horecky - Thank you very much Board members.

2. Piti Shooting Range

John Unpingco - Thank you Mr. Chairman, thank you members of the Board for giving me, bringing me right up on the top. As you know we're dealing with the Piti Chamorro Shooting Gallery so it's now known and I went up there to the site itself and I saw that there were about, there were some improvements put on the property by the owner Mr. George Cruz. George Cruz is deceased, he's a deceased veteran. His son is here George B. Cruz, I'm sorry for the confusion in names but George B. Cruz and his mother are running the Chamorro Shooting Gallery now. George P. Cruz did a lot of improvements to the property. Now when George B. Cruz did the improvements to the property it was under the impression it was under a valid with Jose Cruz. And it turns out now, well Monte approached me and he said that's Chamorro Land Trust property. I did not know it at the time but because it is still Chamorro Land Trust property I ordered George B. Cruz to take the rent that he normally gives to the landowners, the reputed landowners put it in a bank account and don't give it to the heirs of Jose Cruz pending resolution of this matter. We now come to you, we don't know how much, what the size is you're going to give us if anything at all but we ask you to consider entering into a lease this time a rightful lease with the landowner George B. Cruz. He's over the age of 18 so we're okay in there but this is because they have made improvements to the lot. They've made improvements in building berms, there's one, two, three, four firing ranges and they have berms built on to them and they have a building built there and the building also has office spaces and restroom facilities. It's on top of a hill, the building, the site of this is on top of a hill and it's flat so the safety corridors that would normally require more land space to be dedicated to it are not necessarily that big. So the imprint of the shooting range and the safety zone next to it would amount to about two acres conservatively. At most it would amount to three acres but as I said it's on top of a hill and it goes steeply down on all sides. This lease was between George P. Cruz, George Peter Cruz and Jose Cruz but Tun Jose didn't tell George P. Cruz the status of his property. It turns out that he was under a Chamorro Land Trust

lease for farming the area and he had about a 20 acre parcel given to him and we didn't know about it until just recently. And that is our case really, mistake in our lease we're willing to give you the rental that we're normally giving it and I'm here to answer any questions.

Administrative Director Monte Mafnas - I would like to give Mr. Unpingco a copy of the ground lease that was leased to Mr. Jose Santos from Chamorro Land Trust for a period of ninety-nine years and the subject lot is 170-A-1. Mr. Santos has passed away and unfortunately the lease we have on file has not been executed by the lessee and it's pretty difficult to have a dead man rise up at this point in time. Anyways on the lease also section 20 it's annotated on the lease that there should not be any assignment or subletting of the premises. And 21 says that the lease can be given back to the spousal's wife or husband depending on how the lease reads or the kids or nieces or siblings and Mr. Cruz is not a sibling of Mr. Santos. Also bear in mind that there's a moratorium from Senator, our Chairman, Senator Ben Pangelinan that no lease shall be entered until the rules and regs is promulgated, codified and accepted by the legislature. I just wanted to make sure that it's known. Although we really want to help Mr. Unpingco and Mr. Cruz there's also an objection as aired by the Piti Mayor and the Municipal Planning Council. Unfortunately, they are not here but they will be submitting a written testimony so considering all indications is very difficult to assign me to try to enter into a lease agreement at this point in time. I think the first thing we got to do is get the rules and regs codified and approved by the legislature before we can go forward.

John Unpingco - Well I have a suggestion this is the first time I have ever seen this ground lease. When we entered into the lease with Tun Jose it was with the assumption that he had title to the property and we didn't know about this. I'd like to say to point out that the firing range being cited in that area in not an unknown thing to the Board because they asked for a variance from the zoning requirements a long, long time ago back in 1982. And Mr. Monte Mafnas even sat on that and they gave the variance of the zoning to his grandfather and I forgot what's his first initial, it's J.J. Cruz. He gave a variance to J.J. Cruz to start the firing range and so as far as the thing goes as far as the Land Trust goes now it's going to be hard for them to say that they didn't know of the lease or of the use to which the property is being made.

Administrative Director Monte Mafnas - I would like to go on record that I was Vice-Chairman of the Territorial Planning Commission when we approved the zone variance and none of the Cruz or Santos is my relation. I just want to go on record. And when we approved that back in 1982 there was no Chamorro Land Trust. So the chain of title is incomplete and what I'm stating here is the Chamorro Land Trust was given birth in 1993, Public Law 12-262 amongst other laws but effectuated in 1996. So yes it is a fact that Piti or now known as Chamorro Shooting Gallery has been in existence for decades. I personally know it's been there since the late 70s. But there's been no documentations ever put forth and unfortunately I'm the one the bad guy that discovered this but it's time that we do the right thing. Now how, what web we weave, how we do this it's prudent upon the Board to discuss this and there's a lot of issues that must be addressed. It's just not that easy to enter into lease when it's a commercial lease and it's not an agricultural lease,

it's not a residential lease And the use is clearly commercial and then we just can't enter into a lease at this point in time. Although I feel for them I just can't recommend it.

John Unpingco - Well I have a solution if the Board would consider it that with this regulation for leasing has been going on for quite a period of time and also it will be sometime before the Chamorro Land Trust shall we say gets control of the whole grounds and in the mean time I propose that we continue to use it until such time that the moratorium is up and then at that time we will have a solution to this problem.

Administrative Director Monte Mafnas - That's well stated it's up to the decision of the Board to go forward with this application. I think it's well said but considering everything.

Acting Chairman Oscar Calvo - The only problem that I have here John is you know I was looking into this lease and whatever because I know George who passed and the thing here is this was dated back in June of 1997 which is Joe Cruz Santos and like I said you know he has passed on and it's unfortunately that we catch these now and going through the files and everything and the way the Chamorro Land Trust was birth back then in 1995 or 93 something like that okay. I think hypothetically to that degree and on that lease shall not be subject to assign and then the successor to this lease is you know husbands, wives, children, widows and brothers and sisters and so forth. So I think being the I am not a lawyer but I think in some way or fashion this can also be a challenge by the other family members for that because you know because there is never really an inheritance to this but in the Chamorro Land Trust rules and regs I know that the siblings has you know and for that matter. I think it's and we don't have a legal counsel at this point in time and it'll be very timely for us to really consider this right now. We can do what you suggested at this time and it'll be up to the Board whether to continue on until these issues and the rules and regs is due but keep in mind even if it was to go down that trench and things were to change that it doesn't guarantee you.

John Unpingco - I don't foresee it as you guaranteeing me anything but I'm saying give us a chance to recoup our investment in the place because even though it might seem like nothing it really is something you know.

Acting Chairman Oscar Calvo - No because I've been down there I mean I used to go down there a lot because of deceased Joe I used to go down there and pick dagu and so forth in that place and I know I've been into the rifle range because of deceased George and everything. So I know him and I know he's a veteran, myself personally but I think to reserve that comment I think we need to look at it in a very objective way that in the near future if it does come through and without the rules and regs again we don't yeah. So I can't, it's really up to the two Board members how they look at it at this point in time.

John Unpingco - The rules and regs I believe they have been mentioned in some way shape or form ever since the beginning of the Commission of the Trust and every time I've had some experience in terms of leasing some property from the Chamorro Land Trust and every time I come to my research and it gets to that point it's like wow where are your rules? We're willing to abide by them give us your rules.

Acting Chairman Oscar Calvo - But we did submit our rules and regs to the legislature John last year but of course you know for whatever reason the legislature shut it down. But that rules has really been, it's been submitted in from the previous administrators. From former I think Ron Teehan to Mr. Borja and so forth and Jesse and now going into to you know so it's not that we're not trying. We want to really get this thing done the right way but the legislature has the key hold to this and until that time comes as a matter of fact when I went for my confirmation hearing that's one of the things that Senator Ben Pangelinan quoted me and asked me. And I simply told him we have given you the rules and regs and we did put a rules and regs and everything and at the end of the day I know that there were going to be some changes in the rules and regs. We have no problems with that because you know we gave them a piece of document but we know that they're going to modify it and so forth. So I think whatever they decide from here on I don't know. I'm hoping that the Senators really consider in getting this rules because we really need to get that and it's prolonging like yours in your situation and other situations. So I don't know what the other two Board members decision on this, I don't know, Dave?

Vice-Chairman David Matanane - Well one question I'd like to ask Monte, is this lease agreement up to date or are they complying with the lease?

Administrative Director Monte Mafnas - No, they have not, they are compelled to comply with the agricultural rules and regs and they have failed to do that. And I would like to suggest, there's three kids of Mr. Santos the deceased if we can just carve out three and take away the 16.17 to give it to bonafide farmers. I do want to go on record that the biggest injustice here is Chamorro Land Trust. We have not received a penny or a dime. I just want to state that on record.

John Unpingco - I disagree with Mr. Mafnas. We are willing and able to do that as of the time we found out. We are the victims here because we have built a building on this place. The widow has gone into debt over this and that's the injustice here is that are you now going to just kick the widow and the widow's son off the property?

Administrative Director Monte Mafnas - I did meet with Mr. George Jr. and I did tell him that we would need to bring this to the Board but worst case scenario or best case scenario he should be or I would request that the Board if we leave him in business for a period of no more than six months. Did I not state that Mr. Cruz?

George Cruz - Yes.

Administrative Director Monte Mafnas - So I was trying to be amicable and civil not just kick everybody out right now, right now. I do know that this is a problem that must be addressed.

John Unpingco - And the other thing here Mr. Chairman we're just finding out about this ground lease for the agricultural. If given a chance to comply with it we shall certainly do our best to comply with it but we had no knowledge that there was such a lease available.

And because of this lease we would ask the Board that we given permission to apply for the 2 acres that we asked for from the Chamorro Land Trust and we will be in compliant with whatever lease you give us. But that's the only solution because if blame be put on anyone it would be on Mr. Jose Cruz Santos because he was the one that knew of this but he didn't tell us. We're the innocent third parties to this. We entered into a lease with him, we gave him the monthly rental payments. We were very particular about the monthly rental payments, we didn't miss a payment and had we known what we know now we would have impounded all the lease payments we gave him and his heirs into the bank account.

Acting Chairman Oscar Calvo - Well given the you know any right to that degree and to no fault of yours and the Chamorro Land Trust and whatever has been found on the issues and then these are issues that's also been found in the Chamorro Land Trust in the past where you know when people start subleasing they have a lease and they owe this but then they do sublease and we are finding things like that. I'm not saying that that's in your fault and I think if the Board is tentatively what Mr. Monte has stated that he would give the option of I guess time to you know.

John Unpingco - Yes but we would also ask that we be given a chance to put in for the Chamorro Land Trust lease for the two acres at least, you can take the rest but just the two acres that we have improved. There's a building on there now and we can't very well, it's a concrete building, we can't up root it you know.

Vice-Chairman David Matanane - You know even on Section 20 here, assignability of subleasing it violates the lease. Entering into any contract involving the leased land violated the lease so you know and not making any payments is another violation. You know I think we should look at this deeper and then maybe a round of thoughts that could come up that we could come up but as far as to me this lease has been violated since the start.

John Unpingco - I think we can come to reasonable compromise in this situation if we're given the opportunity to come to a reasonable compromise. At least the Chamorro Land Trust won't be without any rental payments for the property hence forth but we would like the opportunity to put in for the two acres that we have the site of the firing range on.

Vice-Chairman David Matanane - May I ask Mr. Unpingco how much are you leasing it now?

John Unpingco - Six hundred a month.

Vice-Chairman David Matanane - From Jose Santos.

John Unpingco - The heirs of Tun Jose.

Vice-Chairman David Matanane - And you have been forth coming on your..(interrupted).

John Unpingco - Yes we have been very faithful to our payments.

Vice-Chairman David Matanane - Do you have a copy of your lease?

John Unpingco - I don't not with me but I can furnish you one.

Acting Chairman Oscar Calvo - The original lease that Mr. Santos has given you I'm pretty sure that there should be a documentation on that.

John Unpingco - We registered in Land Management I mean we did everything that we possibly could to ensure that it was a legal document.

Vice-Chairman David Matanane - And with all the payments that's been required of.

John Unpingco - Yes.

Commissioner Michael Borja - I think that unfortunately as it's been pointed out there are a lot of things here that are not ticked off properly but I think what we have done in the past in being understanding with who we are confirming on the land is we have given the opportunity over a period of time to either vacate or to do (inaudible). And in this case I think we kind of mentioned a few things here on the table already that if there were ways to work this lease out amongst the existing successors of the lease and to do something again here where it should work out but I think that a period of six months we can allow them to operate for another period of six months. And within that time their lease would come to some better resolution or reach a final resolution of what this is all going to come to. In light of what's going on here I know that everyone is all discovering the problems that have happened here but that should give us some ample time.

John Unpingco - First of all the idea of your ground lease having been violated I don't think it's a new concept to us I mean there's other people out there probably violating it okay. But what we're proposing here is that we can work something out that we are reasonable men. If the lease the original lease to Tun Jose is for 20 acres well give an acre or two to each of his sons and give us something because we have a building there.

Vice-Chairman David Matanane - Preferably where the building's at.

John Unpingco - Yeah and where the berms are at.

Acting Chairman Oscar Calvo - You know hypothetically John on this John also if we do go and the rules and regs does play you know the rental fee would be a totally different scenario. I think you want to look down that trench where if the, what Mr. Borja said we come to some sort of resolution in the future then the lease will be modified because back then you know this is like over decades of this thing so. And I'm almost sure John yes there is a building there and everything and I'm almost sure that part of that building where you guys really paid off in some way or fashion in that rifle range so maybe not to the full extent but the payment if it was to come down that there will be a different type of payment.

John Unpingco - We're not adversed to, let me say where we stand we're not adversed to negotiating a lease with Chamorro Land Trust. We're not adversed to the rent being increased a little bit more but we have to consider the income we bring in you know because this is a small business and times are hard for small businesses out there so that we have to factor in to the consideration of the lease. As far as the lease being violated, your lease, yes it has been violated and any lawyer would be fooled to try to contest that. But as far as our lease goes we have not violated it. We have been true to the spirit and to the terms of our lease and that in itself should count for something.

Acting Chairman Oscar Calvo - The only reason why I brought that up because if we do get that option in an afforded way that there will be you know once the new lease agreement come forward. Right now you're saying you're paying what six hundred dollars a month or whatever and whatever you gross that you make a month I know that you have to tally all that in respect to that. And the only reason why I brought that because right now we haven't got any penny out of this in decades okay and we can't go back and ask you for reimbursement for all that six hundred dollars. So you know we just want to set the stage that from here on I just want to make sure that nothing is secured at this time until we get this thing done.

Administrative Director Monte Mafnas - I'd like to ask Mr. Unpingco actually not ask I'd like to demand that in the probability hypothetically speaking if we extend this period for another six months it's imperative that he gets a liability insurance nothing less than a million dollars.

John Unpingco - We tried that. Unfortunately, because firing ranges are a high risk liability no insurance company would like to insure us but we've tried it and it didn't work. As I said before we wanted to insure against all perils and liabilities and we just couldn't get it.

Administrative Director Monte Mafnas - Knock on wood nothing has happened but please be aware that..(interrupted).

Acting Chairman Oscar Calvo - At the end of the day someone is going to be liable for whatever issues there. If one of those people that come there to the range I mean yes I know that it's being done professionally and well thought off and looked but I remember there was an incident there that one Japanese guy shot himself accidently on the butt for that matter. But you know if there was a bystander or if the farmers is somewhere in there and one of the bullet was to accidently I'm not saying it's going to happen because the Chamorro Land Trust would be liable for any law suit for that matter.

Administrative Director Monte Mafnas - Mr. Chairman thank you, you know as you know Mr. Judge, Mr. Lawyer this is a litigious society, I would like to see the effort of acquiring the insurance. I don't want to assume that you can't get it. I want to see an effort in writing that you did request for liability insurance.

John Unpingco - Okay you want us to request it again?

Administrative Director Monte Mafnas - Yes.

John Unpingco - Okay.

Administrative Director Monte Mafnas - I think it's only fair that you show cause that you know.

John Unpingco - But the thing with it is that for six months of operation you know what insurance is going to insure us for six months? That's one of the things we have to factor in to the discussion. Suffice it to say that if we get a commitment from an insurer say for a year of policy would that be enough and then just tell you that here we could get insurance but it's for a year's term we can't get it for anything less than that.

Commissioner Michael Borja - There should be a clause in there for termination that you have to terminate it in six months.

John Unpingco - Yeah but the insurance company is not going to insure you if it's just for a short period of time is the point.

Commissioner Michael Borja - I was able to get out of a year's insurance because of other reasons and it was a pretty large insurance policy. The company didn't give the ability to withdraw but everybody has their ways and so if something is available and that's the point is can you get something to show and if not to show that you can't, that the insurers are not willing to cover for whatever reason if its time.

John Unpingco - Yes that's all I wanted to bring out.

Administrative Director Monte Mafnas - But technically you have a good track record nobody has ever died right?

John Unpingco - Nobody not like some of the shooting ranges where the Japanese tourist commit suicide.

Administrative Director Monte Mafnas - So I think you would be able to get it, at least go through the exercise.

Acting Chairman Oscar Calvo - Okay is that fair to you on what the Board members had just submitted and Monte?

Commissioner Michael Borja - I move that we table this for discussion for six months and within that period of time allow the CLTC and the respective party to come to some kind of resolution on how to proceed forward and then report back in six months for further discussion.

Vice-Chairman David Matanane - I second it.

(There were no objections)

Acting Chairman Oscar Calvo - And also to that that we get some sort of rules and regs from the legislature.

John Unpingco - If I may it is often cleaning up the mess that somebody left behind for you it is often very difficult there is no one hundred percent truly just solution to it but I think with the help of the Chamorro Land Trust we can certainly strive towards at least achieving that solution and that's all I can ask for it because I'm bound by the same regulations you are or same regulations I will be bound by the same regulations you are.

Vice-Chairman David Matanane - You already made the motion and I second it so I'll see you in six months or maybe even earlier than that if we have something.

John Unpingco - Yes thank you.

VII. DIRECTOR'S REPORT

1. Bill 337

Administrative Director Monte Mafnas - I wanted to address Bill 337. I do have a letter of support and the bill is there in the packet. I commend the Senator for really concerning the Trust, protecting the beneficiaries of the Trust and the language stipulates that the property when used by the lessee shall be usable for farming and/or residential but we have an interest at this point in time by Smithbridge to quarry the property. And the reason why I even entertained this exercise is to identify seed money for infrastructure. Now strictly for seed money for infrastructure and Smithbridge has met with all the Senators and it's as expressed verbally and in writing that they want to work with Chamorro Land Trust to effectuate this exchange or purchase. Now we all know that Senator Ben Pangelinan will not permit a purchase. I don't think it's allowed in the law but Chamorro Land Trust has the capacity to lease it for a term of ninety nine years. Now I did mention to the Senator in a phone call that this bill might kill the seed money necessary to borrow more money to install and imbed infrastructure. Infrastructure is extremely expensive and we can only attack those problems by increments because it's super expensive and it'll continue to be more expensive every day, every month forward every year. I'm hoping he can reconsider my request but he did say that if Smithbridge was to provide land then he's okay with that. But if Smithbridge provides land and we lease the property to them the value of the land it will be taking away from the value of the cash we will be getting. So therefore the only gain you will have will be the mineral rights which they will be harvesting. So in addition to a floor rent, lease rent, we will be getting royalties to make sure that they pay accordingly that you don't sell the property for example on value for value. We're taking it to the extreme to make sure we get paid properly and that's the mineral rights. So I did reduce and memorialize my intent to support this bill but I'm hoping that the Senator understand that this might just kill the Smithbridge deal. And if we can't identify seed money when do we do? How can we go forward? How can we provide necessary infrastructure for the people of Guam? I stand corrected, for the beneficiaries of the Trust.

Acting Chairman Oscar Calvo - And that's been the outcry of the people on the Chamorro Land Trust is not providing the infrastructure and basically it's really when this was passed back then we were supposed to be installed the infrastructure which a dollar a year and fifty dollar application is not going to cut it. And so we got to be very creative in finding out ways to get money and do the infrastructure because that's been the prime problem and you know this Dave. How many times we come, people come in here and say you know they gave me a piece of property but I can't even get in there because I don't have water, I don't have power, I don't have road. So I think to that degree I mean I was reading on that bill and yes I do have a reserve on this because like you said in the line of Smithbridge that they're willing to do this to give us seed money to strictly for that money and the legislature can have control to that. They can rule that out that that money basically will be used for whatever project but that's the only way we can move forward in doing this.

Vice-Chairman David Matanane - Back then when I was asking previously, asking for reports, I was thinking the monthly income that you know is enough to generate a monthly payment towards a mortgaged building but I have yet to come to a number where each month how much does the Chamorro Land Trust have in monthly payments.

Acting Chairman Oscar Calvo - Dave we're working on that right now.

Vice-Chairman David Matanane - Joe Borja I asked and with every other Director that I would appreciate a copy just run the tape and we can see the average and we can work out that let's say seven hundred thousand for we're paying six hundred thousand so we still have two for cushion for whatever. And yet up till now and I still say that Chamorro Land Trust should take over their money that they're producing so we can move forward.

Administrative Director Monte Mafnas - I accept the responsibility, it's my fault I have not provided you.

Commissioner Michael Borja - I have a question on this bill and Napu don't hesitate to jump in and answer if you can on this one section about on the first page the Commission shall not approve any leases that doesn't meet all these requirements and such license or lease that is authorized shall be declared null and void. So is this basically saying if this new bill becomes law all preexisting leases and licenses that came prior to this are null and void?

Napu Castro - We have another legislation that we're planning to work on those pre-existing but we do not believe that this bill will have any impact on the ones that are already..(interrupted).

Commissioner Michael Borja - Because you really can't do that.

Administrative Director Monte Mafnas - You can't go retrospectively back.

Commissioner Michael Borja - What does it mean in any such license that is authorized, do we just say you can't enter into a lease or a license.

Napu Castro - (inaudible)

Administrative Director Monte Mafnas - Can you drag your feet Mr. Napu until we consummate the Smithbridge deal?

Napu Castro - I will bring it up to the Senator.

Administrative Director Monte Mafnas - Because that's the only way to take that seed money and work with USDA under the SUTTA program, Substantially Undeserved Trust Area, to get the funding. I will be meeting with USDA next week. We will be getting the letter a memorandum of understanding to effectuate this plan. We're moving forward expeditiously but something like this would just kill the exercise and this is the only chance I foresee to expediently install the infrastructure. And there's another possible viability of another major company to come in for the other forty five acres so we could in theory imbed and install infrastructure for the whole Tract 9210 although it has to be done incrementally speaking. So you know we're growing the economy, we're affording the local people to build their homes and also we're protecting the northern water lens. So we need that income stream otherwise it's an exercise in futility. Is it possible then therefore that you will pull this bill out?

Napu Castro - I can't.

Administrative Director Monte Mafnas - Can you suggest to our dear Senator to pull it out of the floor?

Commissioner Michael Borja - Or to allow us to have a discussion you know to make sure that you know since it specifically impacts our charter.

Vice-Chairman David Matanane - Has it been publicly heard already?

Napu Castro - No.

Commissioner Michael Borja - But we could have a discussion.

Administrative Director Monte Mafnas - With the Board that's why I brought it here with the Board. Everyone has pluses and minuses to interject.

Commissioner Michael Borja - We don't want to go and argue in public but to at least come up with something we all understand where you're coming from. I mean he's the policy maker and we're just the executioners but you have to understand too that in order for the Commission to even have a viable plan and a road plan for the future that legislation such as this could impede things. Nothing could happen without money and you know the money is not growing on the tree. Just driving down Marine Drive I'm noticing that even the roads are starting to look like Yigo where they're starting to crumble and I think God wouldn't it be nice to just resurface this but heck we can't even get the other projects done. But I mean money is just not available you know to freely do anything you want and it's

important if we have businesses that have a self interest in their own part to create to do something and they're going to pay to do it if that money does come up and help to fund our infrastructure. But you know with the knowledge too that they're not going to rape and pillage the land and I think that's what the intent to that bill looks like is that don't rape and pillage the land and leave it completely render less to any kind of use in the future you know whether you smother it with chemicals and destroy it from growing anything for a thousand years to whatever.

Napu Castro - If the Board would like we can schedule an appointment with the Senator.

Administrative Director Monte Mafnas - That's an excellent idea.

Acting Chairman Oscar Calvo - It'll be nice too this is only a suggestion that maybe before the bill goes out on the floor for that matter to be out on public given the opportunity for other Senators to sit in to that meeting.

Napu Castro - Yes we can do that as well.

Acting Chairman Oscar Calvo - Because from one and the reason for that rational thing is yes and we know that we understand that Senator Ben Pangelinan is the chairman for this but I think you know you'll probably pass it on but I think it will be generally good that other policy makers listen to us what are guess is that if we do this it's going to kill us. And then they can always go back and re-modify the bill for that matter in a better way.

Commissioner Michael Borja - And we do know that your Senator is a strong supporter you know really up this whole of the Chamorro Land Trust and I know he's looking out in the interest of the Land Trust but we can still have a good discussion over some of these issues.

Napu Castro - (inaudible)

Commissioner Michael Borja - Well I know on the last meeting we had both Smithbridge and Hawaiian Rock coming forward asking to speak but even Smithbridge to try and acquire some additional lands.

Napu Castro - Smithbridge is a little bit different were they about the same agreement?

Commissioner Michael Borja - Very slightly different in the way there were looked at.

Administrative Director Monte Mafnas - They wanted to purchase it but they were working with us whatever would make it work.

Commissioner Michael Borja - But they were also looking to try and do something where they could help with another plot of land to help develop it.

Administrative Director Monte Mafnas - Napu can you arrange that or how do we, what do you suggest?

Napu Castro - Yeah we can just stay in contact and I'll let you know we can schedule a meeting with everybody.

Administrative Director Monte Mafnas - Very good thank you very much.

Acting Chairman Oscar Calvo - I know it's going to be on the time of the Senators I hope that they can fit it in to their schedule and give us at least heads up too, don't call that morning and say okay we're having a meeting.

Napu Castro - Oh no not at all.

Administrative Director Monte Mafnas - Because I know November 1st is going to be session right.

Acting Chairman Oscar Cavlo - Yeah.

Administrative Director Monte Mafnas - So it's either prior to that or after.

2. $53,000 from Guam Racing Federation

Administrative Director Monte Mafnas - Next are checks totaling over $53,000 as paid by Guam Racing Federation Mr. Henry Simpson which is evidence that the dollar fifty per cubic yard has effectuated so we made a considerable amount of money.

Commissioner Michael Borja - And just for the record to please note that the checks paying that are from Smithbridge, Hawaiian Rock, Perez Bros. These are guys that are helping to pay a lot of the bills and they're paying we're not having to chase after them.

3. Lease inventory

Administrative Director Monte Mafnas - I'm happy to say Commissioners that through the hard work of Mario, Terese, Eileen and basically the round of staff of Chamorro Land Trust and Department of Land Management we have revisited every file within our inventory. We came out with one thousand one hundred agriculture leases. Now this pile constitutes the type of lease, last name, full name, lot description and acres leased and square meters. It was very difficult to ascertain the square meters simply because there are problems to it. Problems being square feet, square meters, half an acre, written one acre and written format, different ways and we also have over seventeen hundred names under the residential. Some of the names need updating because they've passed on, some of the lots is a portion of the same basic lot. So there were all kinds of problems derived from it but it equated to like thirty six hundred acres of CLTC properties. So conceivably there is still roughly close to seven thousand acres that needs to be registered and given to the beneficiaries of the Trust. Seven thousand acres equals close to twenty eight million square meters of land. This is the first time that all the names have been put in order like

this and with the areas and also identifying the problems that need to be addressed. So this is our working list.

Commissioner Michael Borja - So do these people know, their name was on a list, do these people know what lot has been assigned to them?

Administrative Director Monte Mafnas - A good portion of them yes, that is correct. When we issue a survey authorization the lot shall be identified. Sometimes it's lot and block, tract but yes. The main purpose of this working list is to establish value to the properties so an assessment roll will be created by Department of Revenue and Tax and each and every one of these lessees will be taxed whether recorded or not. In the past there were only four hundred and forty-two..(interrupted).

Acting Chairman Oscar Calvo - Four hundred and eighty plus.

Administrative Director Monte Mafnas - Recorded leases but now pursuant to the law everyone here will be taxed as soon as a value has been created. Also we have scanned all recorded maps and we are working in scanning check prints and part of the delay is we're waiting for Bill No. 241 to be approved which happens to be Senator Ben Pangelinan's bill again assisting Chamorro Land Trust. Exempting Chamorro Land Trust from the subdivision requirements and authorizing the Administrative Director to execute the check prints. Once the check prints become executed becomes a sketch and is attached as an exhibit A to leases that will be recorded. I apologize I was supposed to get a copy of the eviction letter. I drafted up an eviction letter and I gave it to the Governor and the Attorney and they said it was too harsh, it's too racial.

Acting Chairman Oscar Calvo - To who?

Administrative Director Monte Mafnas - To the illegal squatters. Basically I was stating in the tone in the spirit of the public law but I want to go on record that I did meet with two consulates. The consulate generals being FSM and Palau and I told them unconditionally and unequivocally that the clock has started and you will be evicted pursuant to public laws mandating, qualifying the Chamorro Land Trust. Pursuant to the Attorney General's opinion and support and pursuant to..(interrupted).

Acting Chairman Oscar Calvo - You got an opinion on that on the AG on that already?

Administrative Director Monte Mafnas - I didn't need that I've already talked to them and I've not given them the letter but I will forward it upon review. I wanted to submit the letter here so the Board will review it.

Commissioner Michael Borja - How is that letter going to be issued? It has to be personally delivered I'm sure.

Administrative Director Monte Mafnas - I don't think so because they're not, they're illegal. I'm releasing it to the consulate and let them decipher and disseminate it.

Commissioner Michael Borja - How about public notice in newspapers?

Administrative Director Monte Mafnas - Yeah we can do that.

Commissioner Michael Borja - I mean you're probably going to have all the news people here talking to you.

Administrative Director Monte Mafnas - In addition to that I wanted to give all the consulate generals this would be the Koreans, the Filipinos, the Japanese I don't care. As far as I'm concerned if you're not a native Chamorro you're not a native Chamorro end of story. But in the letter attached to the letter I've also given possible solutions such as contacting large farmers who have like ten acres and above to try and sponsor a family. To let them live on their property temporarily to teach them how to farm and teach them how the Chamorro ways are and to respect Guam's laws. Number two, I also would identify like Anderson or Naval Station DOL lines and so we'll put all these people and open up a tent city on federal property and have them deal with them because they were the ones who created the compact impact. That's another way.

Acting Chairman Oscar Calvo - I was listening today on the radio and they had to talk about the compact impact and the President of the Micronesians Mr. Mori he's going to write to Washington because you know we're not being faired to being paid that they should be giving us thirty million dollars that was an issue back then when it was signed. But that's a lot of seed money that the people of Guam because right now they owe us like what two hundred million dollars right.

Administrative Director Monte Mafnas - Half a billion. Also possibly enter into a tent city over at ancestral lands. Definitely not Chamorro Land Trust because I told the consulate that every square meters, every acre that you occupy is denying the beneficiaries of the Trust. So if I can get out a hundred families then I can put in a hundred families and to my surprise they were agreeable.

Commissioner Michael Borja - What else can they say?

Administrative Director Monte Mafnas - That's right.

Commissioner Michael Borja - You know there was a story that came out yesterday which was kind of surprising is that United States deported a record number of illegal immigrants in the United States just this year. Four hundred thousand of them and they did a story of these people showing them the whole process and they boarded them on an airplane prominently known as Ice Air for the immigration customs enforcement. They board in hand cuffed, they're padlocked to the seats but as soon as the plane lands in whatever country Honduras whatever they unlock them all and they just go running off to a school bus hop on and they're gone no processing. But going back to this list here so this is a complete list of all the applicants?

Administrative Director Monte Mafnas - That's true, available in our inventory.

Commissioner Michael Borja - And they've all been assigned so this is all the applicants.

Administrative Director Monte Mafnas - No that's the approved leases. We have thirteen thousand applicants.

Commissioner Michael Borja - And this comes to how many total?

Administrative Director Monte Mafnas - Almost three thousand.

Commissioner Michael Borja - Three thousand oh so you still have this is just like a third or a quarter of all the applicants. So have they received notice that this is the land that has been assigned to them?

Administrative Director Monte Mafnas - Yes a lot of them have taken possession.

Commissioner Michael Borja - Because there are already people that I know have so now they're going to be receiving in January their little tax notices.

Administrative Director Monte Mafnas - That's right.

Napu Castro - Is Jose Cruz Santos on that list?

Acting Chairman Oscar Calvo - The one we talked earlier?

Administrative Director Monte Mafnas - By the way I just want to interject especially Mario and Terese they stayed up to midnight.

Commissioner Michael Borja - Jose Crus Santos, Piti, page 31.

Administrative Director Monte Mafnas - Yes it's on page 31.

Commissioner Michael Borja - The very bottom, 19 acres that's what the lease says.

Napu Castro - But how can it be approved, what documentation does that prove I mean he didn't sign it so how were we able to say it was approved?

Acting Chairman Oscar Calvo - Because back then it wasn't under the Chamorro Land Trust yet.

Administrative Director Monte Mafnas - We cannot assume that he never signed it because he might have signed it just never gave us a copy because that's happened in the past.

Commissioner Michael Borja - But the Government executed it because it had the proper signatures of the Government just we don't have his signature. You know that seems to be

popping up I mean your buddy in Dededo you know who you evicted because he had too many roosters but I mean here he was thinking he was using someone's land who thought that person was claiming oh I got ten acres when really he just had a quarter acre.

Acting Chairman Oscar Calvo - Yeah this is the same scenario with Onedera.

Administrative Director Monte Mafnas - That's what he's saying.

Commissioner Michael Borja - Now is Unpingco the attorney for this Cruz family?

Administrative Director Monte Mafnas - Yes also the uncle and son in law.

Commissioner Michael Borja - That's his son in law?

Administrative Director Monte Mafnas - That's the nephew in law but he's representing the family interest, his mother in law's interest because the father in law passed away.

Commissioner Michael Borja - You guys pointed it out I mean if there was just at least one thing in that lease that you can stick to then you could really easily work with that.

Vice-Chairman David Matanane - We're talking about nothing.

Commissioner Michael Borja - I mean that Mr. Santos completed violated the whole provision of the whole lease. They haven't even farmed. I bet you the boys or his kids don't even know that they got that property.

Vice-Chairman David Matanane - It surprised me ninety nine years and I thought this was only supposed to be only a license not a lease.

Acting Chairman Oscar Calvo - But actually I was telling Monte that could still be a challenging that's why with John because the lease itself the successors of the lease could be on the wife and if I'm not mistaken George which is the remember I told you George was married and this is George's son okay Junior. But then George remarried and so the confusing part here is any one of these family the husband and wife or the children or the widows can claim.

Commissioner Michael Borja - You know who's going to be the one that's going to do it? The one that checks the mail and gets the tax.

Administrative Director Monte Mafnas - That's why I went on record we have to honor that spirit of the lease and give them the three acres to the three kids but the rest we should take back, repossess.

Commissioner Michael Borja - Where in Piti is this?

Administrative Director Monte Mafnas- Right on the hill.

Acting Chairman Oscar Calvo - Once you pass the Veteran's Cemetary and you're driving down it's the first..(interrupted).

Administrative Director Monte Mafnas - Mountain side not ocean side.

Acting Chairman Oscar Calvo - There's a road right after the Veteran and you pass it there's an island in between there just make a left, that's the only existing road.

Vice-Chairman David Matanane - We got to do something about the lease payment that he's making already to the Santos because the intention here is to pay for the lease and we should have that money.

Commissioner Michael Borja - But his advice to his client relative is put the rent into an account to show you're still paying it but nobody is going to hold onto it until we solve this.

4. Guam Housing Corporation to prequalify CLTC applicants

Administrative Director Monte Mafnas - I would like to ask the Board to go and transfer nine to two deteriorated lots on the site called Sagan Linayan to Guam Housing Corporation. The reason for that is we don't have the money to fix up those houses. We have guaranteed loans in the past and we got stuck and I'm gun shy in guaranteeing any more loans.

Commissioner Michael Borja - Where's this lot at?

Administrative Director Monte Mafnas - This is you know the dollar homes.

Commissioner Michael Borja - Oh up in Dededo, Machanao.

Administrative Director Monte Mafnas - But now also known as Sagan Linayan, Astumbo. I did mention to Guam Housing that if the Board votes in transferring it to them to lease it out or sell it they must use Chamorro Land Trust names. I have queried two thousand names to support that exercise and I think it's only right, I think it's fair that we let them handle this transaction because they have money readily available today to spend and loan out.

Commissioner Michael Borja - What are they going to do to those homes?

Administrative Director Monte Mafnas - Fix it up.

Commissioner Michael Borja - Oh these homes have been abandoned.

Administrative Director Monte Mafnas - Abandoned correct.

Commissioner Amanda Santos - Good thing they're selling the lot like Guam Housing.

Vice-Chairman David Matanane - But at the end it is still..(interrupted).

Administrative Director Monte Mafnas - Chamorro Land Trust is still a part of it.

Vice-Chairman David Matanane - Oh still that's my only concern.

Administrative Director Monte Mafnas - That the names that they sell or the potential buyer has to come from Chamorro Land Trust. That's why I'm giving them two thousand names to qualify.

Acting Chairman Oscar Calvo - But I talked to Mart, they said they got about a million dollars they can spend in fixing up this place and everything which that's money that they have right now available.

Administrative Director Monte Mafnas - Pursuant to Public Law 12-262 any land that's not been identified by line agencies shall be transferred to Chamorro Land Trust. Now this land belonged to Department of Land Management so I'm just saying I suggest the Board consider this and send it over there as long as a Chamorro Land Trust recipient..(interrupted).

Commissioner Michael Borja - So there will be a memo of an agreement.

Administrative Director Monte Mafnas - Or a memorandum of understanding.

Commissioner Michael Borja - Between the Chamorro Land Trust and Guam Housing Corp to.

Administrative Director Monte Mafnas - To effectuate these exchanges and Land Management because you know I have to sign that too. And see it's an expedient process because they have the money right now.

Commissioner Michael Borja - Are there any other kind of barriers to hold up the Land Trust from being able to do this?

Administrative Director Monte Mafnas - Well actually there's sixty seven more lots but I wanted to start with the dilapidated homes.

Vice-Chairman David Matanane - We're going to need all the paperwork to effectuate the transaction.

Administrative Director Monte Mafnas - They are working on it, their counsel, their Board then we can review it. I would like for the Board to sign on this not just the Administrative Director.

Vice-Chairman David Matanane - Once they produce those documents on how it's going to go the transaction then we can review it and we can make a decision.

Commissioner Michael Borja - But I don't have a problem with this.

Administrative Director Monte Mafnas - Okay good.

Vice-Chairman David Matanane - Only the jargons that are put in this document.

5. Attorney RFP

Administrative Director Monte Mafnas - Mr. Chairman we've been trying to push GSA to get on the stick to get our RFP out and they are still dragging their leg on that exercise.

Commissioner Michael Borja - Was there identified funds?

Administrative Director Monte Mafnas - Yes.

Commissioner Michael Borja - And they're dragging? I mean usually you drag if you don't have the money.

Administrative Director Monte Mafnas - Mario has been there, the Chairman has been there, I've been there, we have a dialogue on going but unfortunately..(interrupted).

Acting Chairman Oscar Calvo - What was their reason last time when we spoke if I may ask.

Commissioner Michael Borja - They're trying to figure out the ambulance.

Administrative Director Monte Mafnas - The ambulance. Fortunately I'm trying to work out a deal with Ancestral to finance instead of us financing, CLTC financing the attorney they go up to bat for us and register our lots, ninety six lots at Land Management and a hundred forty six lots at Ancestral. And the reason for that is Land Management would be spending time and money to prepare the land registration map, the abstract of title and process server each and every lot owner and I want to use our money dedicated funding for the attorney for the Board and day to day operations also the other GLUC and ALC. So I will use our money for board purposes because they're more up to date more modern in their education and the attorney general will work strictly for land registration purposes. That way we can group as many as we can and register as expeditiously. In the end too there's a possibility that the attorney general would have to be conflicted out on a case so we can eliminate that possible conflict of interest because the attorney general represents the greater good of the people not just Chamorro Land Trust, not just Ancestral Lands Commission. It depends which hat they wear too. So I want to eliminate that problem by hiring our own private counsel as been done in the past.

Acting Chairman Oscar Calvo - I know certainly that we need that legal counsel because a lot of these issues now that we are looking at.

Administrative Director Monte Mafnas - By the way Port Authority has two lawyers. So we're not the same as the Port but it makes sense if we can have one dedicated for land

registrations to register the lands once and for all. It's been fifty years that we have not registered all the lands.

Acting Chairman Oscar Calvo - Because right now and we talked about this Monte that ideally that we need to and I talked to this also in the previous administration with Mr. Borja on the land issue that we actually need to just focus one legal counsel to look at this where because if we try to use another legal counsel doing the same day to day work operational daily work I mean you know. I want because that lawyer is not going to be there for four to five years at the most maybe two years depending on the speed of work that he's going to do and hopefully he can accomplish that mission a lot easier and faster because that way he can focus and concentrate strictly for that land. But we're not going to be saying by the way Mr. Lawyer you know you have to come in tomorrow because I need you to do things. This way he's only going to be just focusing on the land registration and keeping up to that versus if we get him and also doing our day to day work that's going to hamper his ability too and then and I know we're always going to needing legal opinions and so forth. And the legal opinions Monte and I have discussed that we also need to we'll probably wait that out in discussion where it could be an hourly rate or you know.

Administrative Director Monte Mafnas - I suggest an hourly rate that way it will be money well spent.

Acting Chairman Oscar Calvo - Because most of the time the legal counsel will really just work things on the Boards like issues like today with Mr. Horecky and issues like that he can work but it's not like he's going to have to look at every documentation. And then also create from the legal counsel also to make sure and we talked about this in the contracts and lease modify all these things so it will be just standard now. Of course every contract and lease would still be in a different way but most of it will be easier and finalized.

6. GEDA MOU

Administrative Director Monte Mafnas - I'd like to suggest to the Board that we enter into a memorandum of understanding with GEDA to market all of our properties because they are traveling world wide as we speak.

Commissioner Michael Borja - What do you mean market it?

Administrative Director Monte Mafnas- Well whatever from a commercial point of view. The major intent is to assist us in getting and defining our rules and regs so hopefully that the Senators will approve it so that was part of the exercise. Because you know we are really a small staff and Land Management is also less than one third operational. We used to have a hundred and fifty employees they're down to forty-seven. Chamorro Land Trust we have nine and it'll be eight by December. And if I can't get you your listing, the commercial it'll be seven because I'll be resigning. So I think it will be money well spent upon delivery of a tenant because part of the business exercise is to provide the business plan, the financial statement, standing in the legislature, copy of the by-laws, articles, we're just swamped and I can't..(interrupted).

Commissioner Michael Borja - If some company comes forward and says hey we want to do something here on Guam, we need x amount of property to be able to build our factory or whatever it is..(interrupted).

Acting Chairman Oscar Calvo - We have a class example like the, that we have been trying to settle up at the old hospital but because and you were a part of that Dave we were a part of that is you know we don't have the expertise to do that. But we need GEDA to really be on board on that issue. The only thing that I, we started out with just on that but then I halted back because they wanted too much.

Administrative Director Monte Mafnas - We started at fourteen point seven five but I got it down to six.

Commissioner Michael Borja - Percent?

Administrative Director Monte Mafnas - Yes but in addition to that is in the event we enter into our private public partnership whereas we provide the land and the developer comes in to build affordable homes you know that's forth coming. It's a matter of time a short time that's going to be a reality. So they have to qualify, quantify that developer for us so we don't have to do that due diligence.

Acting Chairman Oscar Calvo - They'll do all the leg work for us basically. Because I did talk to that on the last administration with GEDA on that with Mr. Blaz and told me but the only thing that I didn't really you know I said I am not going to pay fifteen percent for that matter. But the thing about it the beauty of that is they will go out do all the whatever paperwork and it will only be executed to when if there is a legitimate so we're not going to be charged for whatever paper trail that they're doing at that point. So when the deal does come through for that matter then that's when we yeah.

Administrative Director Monte Mafnas - I believe they can really help us on the rules and regs and that's something we really got to go for it.

Commissioner Michael Borja - Because they really can't do anything unless they have rules and regs.

Administrative Director Monte Mafnas - So everything is in status quo so let's take the initiative to resubmit another rules and regs.

Commissioner Michael Borja - Well you know if we meet with the Senator that could be a discussion. Let's not delay any further. I have no objections on the GEDA.

Commissioner Amanda Santos - No objections.

(There were no further objections.)

Acting Chairman Oscar Calvo - Okay so be it passed.

7. Hawaii conference call
Administrative Director Monte Mafnas - Lastly, remember I was telling you we were going to place a conference call with Bob Hall there's another guy I met his name is Michael Cumming also from Department of Hawaiian Homelands and he was the guy that built a lot of it. So Bob Hall is the Deputy Director and this guy was the actual project manager so we could talk to both of them and get the best deal, get the best bang for the buck.

VIII. EXECUTIVE SESSION - None.

IX. ADJOURNMENT
Meeting adjourned at 3pm.

Transcribed by: Teresa Topasna: Teresa Topasna Date completed: October 26, 2011

Approved by Board motion in meeting of: Nov. 17, 2011

Administrative Director, Monte Mafnas: Monte Mafnas Date: 11-18-11

Chairman (Acting), Oscar Calvo: Oscar Calvo Date: 11-17-11