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DIPĀTTAMENTON MINANEHAN TĀNO'
(Department of Land Management)

KUMISION I TĀNO' SAINA-TA
(Guahan Ancestral Lands Commission)



MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

GALC COMMISSION MEETING MINUTES
Department of Land Management Conference Room
3rd Floor, ITC Building, Tamuning
Wednesday March 15, 2017 | 2:10pm to 4:10pm

I. CALL TO ORDER

Meeting was called to order at 2:10pm by Chairman Anthony Ada

Chairman Anthony Ada: In Compliance with public law 24-109, Guam Ancestral Lands Commission published the public meeting announcement on Wednesday, March 8, 2017 and Monday, March 13, 2017 in the Guam Daily Post.

II. Roll Call

Present were Chairman Anthony Ada-absent, Vice-Chairman Ronald T. Laguaña, Secretary Maria Cruz, Commissioner Ronald Eclavea, Commissioner Anita F. Orlino, Commissioner Antonio Sablan, Commissioner Louisa M. Wessling, Director Michael Borja, Deputy Director David Camacho, Land Administrator Margarita Borja, Karen Charfauros, Land Agent, Nicolas Toft, Attorney.

Joe Borja from Senator Tom Ada's office, Attorney Sandra Miller, Legal Counsel from the Governor's office and Jerick Sablan from the PDN was recognized by Deputy Director and the Director.

Acting Chairman Ronald Laguaña: This meeting is called to order.

III. Approval of Minutes
February 8, 2017

Commissioner Antonio Sablan: I motion to approve the minutes.

Commissioner Anita Orlino: I second the motion.

Acting Chairman Ronald Laguaña: Everybody in favor?

Commissioners: "Aye".

Acting Chairman Ronald Laguaña: All oppose?

No answer.

Acting Chairman Ronald Laguaña: The minutes have been accepted.

IV OLD BUSINESS

Court Cases

Acting Chairman Ronald Laguaña: We move to item number 4, court cases.

Commissioner Anita Orlino: I move to authorize the Director to provide a global settlement for all properties held by the Torres trust. This global settlement is for 2 million dollars and if accepted by the Torres trust it shall move out legal matters before the courts thereby deeming all such properties free and clear.

Acting Chairman Ronald Laguaña: Is that a motion?

Commissioner Anita Orlino: Yes, the motion is to provide a global settlement for all properties held by the Torres trust.

Acting Chairman Ronald Laguaña: Is there a second on the motion? I don't hear a second on the motion, the motion fails. Is there a written formal presentation on that matter Ms. Orlino?

Commissioner Anita Orlino: No. I think we should work on this; time and time again things will complicate more, if we lose on this case we will have to pay on all court fees and that will deplete the land trust money. We have almost five million and I don't want to see that money depleted because of this case. We worked hard for this money to compensate people and I feel bad that we have not finished the rules and regulations that is in relation to this. Could you imagine if we had to pay all court settlements and court fees regarding this matter?

Commissioner Maria Cruz: I am not closed to negotiations but I think we should involve our Attorney in any negotiation whether it be to negotiate money that is not a problem but we really need to get our Attorney involved.

Commissioner Ronald Eclavea: Form what I understand from our legal counsel there is no formal offer. That is my hesitation right now there has to be a formal offer in order for it to be valid.

Acting Chairman Ronald Laguaña: Nothing in writing.

Commissioner Ronald Eclavea: No formal offer and that is what is confusing me there is none. Are we voting on here say or a formal offer?

Commissioner Antonio Sablan: I am in agreement with Commissioners Cruz and Eclavea. It behooves me to hear someone say that we will lose everything we got; I feel that is not true at all. And to say let us receive 2 million and give away 19 million. Based in the presentations and what I have reviewed the Torres had no rights to this property and I feel that this was a big mistake and the Torres went right to probate court. I know that if I was there I would have been fighting vehemently against the issuance of the deed I just can't see myself giving away 19 million dollars for a token 2 million dollars. I guess there needs to be more discussion but right now these are my thoughts.

Commissioner Maria Cruz: Again, I want to reiterate that I am not closed to negotiations whatever the amount is but we need to get our Attorney involved.

Commissioner Louisa Wessling: I just want to state for the record that I concur with Commissioners Cruz, Eclavea and Sablan at this point feel given the presentation that the chronology of history there is a lot of cloud here based on what was presented and from my own research they was no right to title to the original party in this case. The record shows they have no to the title in also regarding the 2 million dollars we are hearing this through third parties, is there really a settlement offer, no! There is nothing to discuss at this point because there is no formal offer and we do need legal counsel before we can discuss anything.

Commissioner Antonio Sablan: Just for clarification we are talking about.....?

Acting Chairman Ronald Laguaña: Attorney Highsmith.

Commissioner Ronald Eclavea: I would like to see a formal offer given to our legal counsel and presented to the board.

Acting Chairman Ronald Laguaña: From what I see here today the majority is not in favor of the action you presented today Ms. Orino, and I too concur with them and I do feel we need an official offer, a formal presentation in writing and I would like legal counsel to be here to advise us on the matter. I think we should table this and call him in.

Commissioner Maria Cruz: I want to make it clear that we need to involve our Attorney.

Acting Chairman Ronald Laguaña: So we clarify that it should be presented to our Attorney.

Director Michael Borja: Do you want to move on that where you have your Attorney obtain a formal request to settle? Between the both of them to discuss this that is what you are asking them to do.

Acting Chairman Ronald Laguaña: You want us to table this until our Attorney is present, representing us in the trust case.

Director Michael Borja: No. You are all in concurrence that you want your Attorney to make a connection to the other side to determine formally that they want to do settlement so do you want them to do this on your behalf to begin the discussion.

Commissioner Antonio Sablan: I would say the offer come through the Attorney or comes through us directly then we call in our Attorney for consultation, either route is fine and again I move that we don't make a decision until major consultation with legal counsel. The other parties are very sophisticated people it behooves me as to what is in their agenda.

Commissioner Maria Cruz: I want to remind the commissioners that in September 2006 when the situation was brought up that they went to probate and not civil court we voted to go to court we voted not to make changes to our decision and continue to go to court this will be our third decision to go to court or we negotiate.

Commissioner Antonio Sablan: What was the offer back then, 2 million?

Commissioner Maria Cruz: 2 million.

If that third party offer had validity not formal, if there is validity it is incumbent upon them to formalize it with legal counsel, then he can tell us it is a formal offer.

Director Michael Borja: This commission needs to make a decision what direction you want the commission to take and what legal counsel is exercising your desire make a motion so we know what exactly what it is you want. I have heard many different things here today; you all want the same thing but make a motion and say what you want the direction so we can give clarity to what you want.

Commissioner Antonio Sablan: I move that we will not discuss further this proposal unless there is a formal proposal made to the Commission or through legal counsel.

Commissioner Louisa Wessling: I second the motion.

Acting Chairman Ronald Laguaña: Open for discussion now.

Commissioner Anita Orlino: Just to clarify the offer is coming from our legal counsel which is Highsmith?

Commissioner Antonio Sablan: It could be presented to us via Highsmith or to the board of course if presented to the board we get Highsmith to come in and consult us.

Acting Chairman Ronald Laguaña: Any other discussions.

Commissioner Ronald Eclavea: Can you clarify your motion again?

Commissioner Antonio Sablan: I move that we will not discuss further this proposal any longer unless there is a formal proposal made to the Commission directly or through legal counsel, assistant AG Highsmith

Commissioner Ronald Eclavea: How would we know if it is a formal offer if it is not through our legal Counsel?

Commissioner Antonio Sablan: In a way that they put it in black and white.

Commissioner Ronald Eclavea: There are many parties and they give it to us directly that is a valid formal offer.

Commissioner Antonio Sablan: That is why we need our counsel to advise us whether or not it is a good or not good offer.

Commissioner Louisa Wessling: Any formal offer would have to be made by someone who is authorized on behalf of whoever this settlement offer is coming from and it would have to be verified. I think the point of Commissioner Sablan motion is since there is nothing that is tangible or verifiable and there is no reason for us to be even talking about it at this point because it is all here say you can't operate on here say and there is no reason to keep talking about it.

Acting Chairman Ronald Lagunaña: Point taken. There is a motion made by Commissioner Sablan and seconded by Commissioner Wessling we now vote, all in favor say "aye" and raise your hands.

Commissioners: "aye"

Acting Chairman Ronald Lagunaña: Majority passes we have five.

Commissioner Maria Cruz: This is progress in us taking a look at formal means to communication.

Acting Chairman Ronald Lagunaña: So Mr. Director we do have direction now on that matter.

Director Michael Borja: I will be submitting a letter directly to the Attorney General's office informing them with this motion and to proceed in obtaining a formal offer.

Commissioner Louisa Wessling: We didn't vote for them to get a formal offer for us we voted on that we have no reason to discuss anything unless the other side makes or takes the initiative to put in writing what they are supposedly offering.

Commissioner Anita Orlino: I heard that they are to propose an offer.

Attorney Nicolas Toft: I have it written down as "there is no further discussion on the settlement unless a formal offer is made through our legal counsel".

Commissioner Ronald Eclavea: That is received through our legal counsel or the commission.

Commissioner Anita Orlino: It is the same.

Commissioner Louisa Wessling: I don't want it to be construed that we are telling them or encouraging them to make a settlement. And if there is indeed a settlement why aren't they making it to us in writing.

Director Michael Borja: Your motion is unless an offer was made from the other side or through your legal counsel so I will inform your legal counsel of your motion so that if he receives an offer he knows what it is. It will also allow him to say to the other side "look, here is the motion other side they are waiting to hear from you"

Acting Chairman Ronald Lagunaña: Whether they come in front of us, I want to see them right in front of me.

Commissioner Ronald Eclavea: There is nothing to stop them from making an offer. That was always on the table the past few years they could settle out of court.

Acting Chairman Ronald Lagunaña: Any other court matters?

Commissioner Antonio Sablan: Could I move that we ask Mr. Highsmith to come back to us?

Acting Chairman Ronald Lagunaña: And give us an update.

Commissioner Ronald Eclavea: I second that.

Acting Chairman Ronald Laguaña: There is a motion on the floor; does it need to be a motion? Okay, we put that on our agenda and we ask him to be present and give us an update.

V. New Business

WIC- Tenant Improvement Allowance

Acting Chairman Ronald Laguaña: Item number V, new business. We all received that letter through email.

Commissioner Anita Orlino: No I didn't get that through email.

Acting Chairman Ronald Laguaña: The letter is from the Director of Public Health and Social Services, we received a request for Tenant Improvement Allowance based on a resolution 2012-001 referencing the lease agreement for lot number 2276 Guam WIC Office 15-600 Mariner Avenue, Tiyán. Guam. Through my understanding we have a memorandum of agreement on this matter and to summarize it.....

Commissioner Ronald Eclavea: I think what they are trying to do is offset improvements.

Commissioner Anita Orlino: We have discussed this before on the building itself but this looks like comfort.

Commissioner Ronald Eclavea: They are asking for \$50,000 but they spent \$80,000 but they are only asking to offset \$50,000.

Commissioner Anita Orlino: Are they up to date on their payment.

Director Michael Borja: No they are not.

Commissioner Anita Orlino: Then let us not discuss this until they are up to date

Director Michael Borja: There is a reason why they are not up to date.

Commissioner Anita Orlino: What is it?

Director Michael Borja: It has everything to do with their type of funding. The federal agency held them from releasing funds for rental and they are working that issue out right now. They have not had legal counsel and our previous legal counsel has moved there and she is tasked to determine how they can get USEPA will authorize them to release the monies they are working on this; they are not trying to be blatantly delinquent on their account they have been restricted.

Commissioner Anita Orlino: How much are they in arrears, do we know?

Director Michael Borja: It was in your last meeting.

Commissioner Anita Orlino: This is just like Mr. Pearson who is not up to date we don't want to give him a chance. We gave them a tenant improvement allowance and they are still delinquent. I understand they 100% federal funded.....

Acting Chairman Ronald Laguaña: Commissioner Orlino I think we should move to discuss this matter with GEDA to give us an update.

Commissioner Anita Orlino: Okay can we table this.

Acting Chairman Ronald Laguaña: Yes we will put that report pending GEDA's report on the matter and advise us I think that is how we did it in the past. We can even have them come in and give a full presentation that is what they did the last time. Put that on the agenda GEDA and public health representatives should be here to give us a presentation.

Commissioner Maria Cruz: We should copy them on this request of the offsets.

Commissioner Antonio Sablan: Does GEDA have a copy of the letter?

Acting Chairman Ronald Laguaña: Let's forward that copy to GEDA.

Karen Charfauros: I think it was routed to us because you are thinking of taking over the management.

Director Michael Borja: You have communicated with them that this commission will be managing this lease.

Commissioner Anita Orlino: Oh! Okay. The MOU is forthcoming right?

Director Michael Borja: It has already been signed by ancestral and it has been forwarded to public health.

Acting Chairman Ronald Laguaña: So here is what we can do we could form a subcommittee maybe assign two people to review this matter and report to us recommendations and we bring it up to the board. Any volunteers?

Commissioner Ronald Eclavea: Could we touch on it a little.

Acting Chairman Ronald Laguaña: It is a lot of information.

Commissioner Ronald Eclavea: They are asking \$50,000.

Commissioner Anita Orlino: They are only asking \$50,000?

Commissioner Ronald Eclavea: That is what I gathered they spent \$80,000 they are asking to offset \$50,000 I just want to discuss if this amount is justifiable or form a subcommittee. If we can handle it here and right now we can handle this task without forming a subcommittee.

Acting Chairman Ronald Laguaña: Good thought Ron but I am thinking they should provide receipts of their cost

Commissioner Ronald Eclavea: Let us just look at what they itemize real quickly and ask ourselves if that \$50,000 is justifiable.

Commissioner Anita Orlino: They have a purchase order.

Deputy Director David Camacho: This has been brought up to you in the past about two years ago concerning the arrears and it went to the board the motion was approved that any improvement on the structure the cost will be credited to what they owe

Commissioner Ronald Eclavea: I remember that.

Commissioner Anita Orlino: But that was on the structure

Deputy Director David Camacho: You base yourselves on the receipt and what they did if they paved the sidewalk it doesn't mean you have to pay for that.

Commissioner Maria Cruz: I think we have already done that some time ago we already offset a lot of items this is something new now.

Deputy Director David Camacho: We never offset anything because we went to the Department of Administration and we took what they owe from their account to pay the arrears of about \$200,000, I went through that with DOA.

Commissioner Maria Cruz: So this is something new then?

Deputy Director David Camacho: I mention that because there was a motion and approval and it is binding.

Commissioner Ronald Eclavea: Maybe you are right we will wait for GEDA.

Acting Chairman Ronald Lagunaña: All we need is to get the balance due. The building improvement the cost is \$50,352.85 but the rough estimate at the bottom here \$79,000 - \$82,000 is that inclusive of what other?

Commissioner Anita Orlino: (reading from Resolution 2012-001) resolved that GALC may consider TIAs as lease rent offsets for local government entities.

Commissioner Louisa Wessling: The \$50,000 is just for air conditioning and other incidentals water blasting, painting and civil work but replacement for the unit and the duct.

Commissioner Ronald Eclavea: From what I understand that is what they are asking for.

Acting Chairman Ronald Lagunaña: Do we have estimated amount of what they owe?

Karen Charfauros: About \$200,000.

Acting Chairman Ronald Lagunaña: Has this been completed Director?

Deputy Director David Camacho: We have never credited them anything.

Acting Chairman Ronald Lagunaña: But have they done this already?

Commissioner Ronald Eclavea: Yeah it says completed.

Acting Chairman Ronald Lagunaña: I didn't see that, let us conduct an inspection?

Commissioner Maria Cruz: Does our MOU expire because if GEDA is still around we should involve them and we are paying for it and they are familiar and I recall there was an offset I just need a refresher would be the right division it give us an answer of any cost incurred and did we defray the cost. I think that was a time when we did get paid a lot and we put it on one side.

Acting Chairman Ronald Lagunaña: These are showing GSA purchase orders from 2016. There is a receipt from May 2016 and August 25, 2016 of 25,000.

Commissioner Ronald Eclavea: Here is our license agreement in the back.

Commissioner Antonio Sablan: Just to point out the license agreement was renewed in January 1, 2015 and the term is for 10 years. Two things that comes into my mind the lessee should have known all these things that are needed and I as a landlord consider these improvement is a major long term structural improvements, electrical, generator even the air conditioning itself it benefits us in the long run I am open to discussion on giving them credit this could be a win-win approach.

Acting Chairman Ronald Lagunaña: I agree. Since this was purchase in June 2016 for \$50,000 unit and a \$25,000 installation for labor I think we should go check it out, look at the facility.

Commissioner Antonio Sablan: I think you are right about that we should be inspecting our assets.

Acting Chairman Ronald Lagunaña: They have a balance of \$200,000 dollars I think we should give them credit but we need to verify.

Commissioner Antonio Sablan: I am not inclined to give them \$50,000 credit there is give and take within that.

Acting Chairman Ronald Lagunaña: Let us plan that.

Commissioner Ronald Eclavea: Could we get input into our Directors?

Commissioner Antonio Sablan: Let us ask our broker here to give us an idea.

Commissioner Louisa Wessling: I would definitely do an inspection to confirm new units were installed, that is number one, and number 2 I am trying to understand the totals here this chart I see that the 53,000 a collective sum of different location because I see under Tiyan clinic and then it cuts off and I cannot see the figures and then I see \$6,900 for Dededo clinic I am assuming that the sum is for these different clinics for the air conditioning so my question would be is the air-conditioning for the Tiyan and satellite clinic. Wherever we are at an inspection is due

Acting Chairman Ronald Lagunaña: And to clarify are those facilitates within our jurisdictions

Deputy Director David Camacho: Only the WIC building in Tiyan.

Acting Chairman Ronald Laguaña: Only the WIC so we conclude that only that amount would be offset.

Commissioner Antonio Sablan: I don't think it would be too much on our part to inspect.

Commissioner Louisa Wessling: We have to do that.

Director Michael Borja: Commissioners we have land agents here who can do that, take pictures and conduct an inspection and make contact with this individual who is the property manager, program coordinator.

All Commissioners: Thank you!

Acting Chairman Ronald Laguaña: That settles that matter.

Director Michael Borja: We are also in consulting with our accounting firm to confirm that our audit and what is acceptable and allow.

Acting Chairman Ronald Laguaña: Very good Mr. Director.

VI. Reports

Acting Chairman Ronald Laguaña: Any reports we are at item number six, Mr. Director any reports?

Director Michael Borja: None to report.

Acting Chairman Ronald Laguaña: What about the Deputy Director?

Deputy Director David Camacho: None.

Acting Chairman Ronald Laguaña: Any other concern with the commissioners?

Commissioner Maria Cruz: Going back to the WIC tenant improvement when is that going to..... Mr. Borja you are going to assign somebody to inspect the facility.

Director Michael Borja: Yes to look specifically at what was installed. They provided invoices of the contractor that installed it and what was paid out

Acting Chairman Ronald Laguaña: And it is not that it will fulfill the \$200,000 that they owe.

Commissioner Maria Cruz: Is it reasonable to ask to get a report in the coming meeting?

Director Michael Borja: They should be able to inspect before the next meeting and if they are able to inspect before the next meeting we will forward it to you.

Acting Chairman Ronald Laguaña: Thank you.

Commissioner Antonio Sablan: Director when in your opinion are we looking at getting paid.

Director Michael Borja: Like I said I just happen to be discussing with our former Attorney who came in this morning it would be the first order of business to make sure there are no conflict in your eyes because she sees that she once represented this commission and she now represents a client of this commission and is there an issue of conflict and if there is she will be the first to raise her hands anyway but if we think she shouldn't be doing this on their behalf then state so. The question was.....

Commissioner Antonio Sablan: We are talking about discounting them but when are we going to get paid?

Director Michael Borja: And that is her first order of business with USEPA is to authorize the payment of rent from the funds they are supplying. They came out of nowhere when she said that they have been paying for rent for the last 10 years you should already own a building. You can't say her is your money for rent and then say you should have been using it for a building purchase it wasn't the directive from the beginning. She has got to work that out and it is just a matter of releasing the funds to you. They are understanding, and I have had chats with the administrator and deputy administrator of EPA they are remorseful but it is only becauseis this WIC?

Commissioners: yeah!

Director Michael Borja: I am sorry I am mixing it up this is the same situation with USEPA but in WIC's case they have funds tied up too, but I will check with them to.

Acting Chairman Ronald Laguaña: Thank you Mr. Director any other questions?

Commissioner Maria Cruz: There was a few of us that supposed to come up with a revision of MOU with GEDA. It is going to expire.

Acting Chairman Ronald Laguaña: We formed a subcommittee can we put that on the agenda for the next meeting an update on GEDA MOU a revision.

Commissioner Maria Cruz: It is my understanding we are going to email our thoughts.

Acting Chairman Ronald Laguaña: Well, do something and present it on the next meeting.

Commissioner Maria Cruz: Karen you provided both MOU's.

Karen Charfauros: They were both attached if you didn't get it let me know and I will re-send it to you.

Acting Chairman Ronald Laguaña: I am sure everybody has received all those emails. Thank you Karen I have been receiving a lot of your correspondence.

Commissioner Antonio Sablan: How do we resolve our rules and regulations?

Commissioner Ronald Eclavea: It is with the Attorney General's office.

Acting Chairman Ronald Laguaña: Let's put that on agenda and can we get a report on that Director, Attorney Toft.

Attorney Nicolas Toft: Yes I will meet with Kristan Finney.

Acting Chairman Ronald Laguaña: We would like an update on our rules and regulations for our next meeting. Can we get a date on our next meeting?

Karen Charfauros: You could do it March 29 or April 5th or 12th.

Acting Chairman Ronald Laguaña: We already had a meeting in March.

Commissioner Maria Cruz: We are supposed to have it twice a month.

Acting Chairman Ronald Laguaña: You are limited to two a month but we usually limit it to one right.

Commissioner Maria Cruz: We are trying to make it two so we could catch up

Acting Chairman Ronald Laguaña: Was that on the floor?

Commissioner Maria Cruz: Yes you were absent.

Acting Chairman Ronald Laguaña: Let us have it on the 5th.

Commissioner Maria Cruz: It is supposed to be the second and fourth Wednesday of the month.

Acting Chairman Ronald Laguaña: The 29th is the fourth let us have it then. March 29th at 2 pm.

VII. Adjournment

Commissioner Ronald Eclavea: I motion to adjourn.

Commissioner Anita Orino: I second.

Acting Chairman Ronald Laguaña: All those in favor say "Aye".

All Commissioners present: "Aye".

Acting Chairman Ronald Laguaña: We are adjourned.

Meeting adjourned at 3:03pm

Transcribed by: Karen N. Charfauros: Karen Charfauros

Approved by Board motion in meeting of: May 10, 2017

David V. Camacho, Deputy Director: David V. Camacho Date: 5/10/17

Anthony J.P. Ada, Chairperson: Anthony J.P. Ada 17 MAY 2017