

GUAM ANCESTRAL LANDS COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning
Wednesday, November 28, 2018 • 2:11 p.m. to 4:15 p.m.
Notices were published in the Guam Post on Tuesday, November 20, 2018 and Monday,
November 26, 2018 in the Guam Daily Post.

I. **Call to Order**

Chairman Ada called the regular meeting of the Guam Ancestral Lands Commission to order at 2:11 p.m., noting a quorum. In Compliance with public law 24-109, Guam Ancestral Lands Commission published the public meeting announcement on Tuesday, November 20, 2018 and Monday November 26, 2018 in the Guan Daily Post.

II. **Roll Call**

Present were: Chairman Anthony Ada, Vice Chairman Ronald Laguana, Commissioner Anita Orlino, Secretary Treasurer Maria Cruz, Commissioner Louisa Wessling, Commissioner Ronald Eclavea - absent, Commissioner Antonio Sablan - absent, Director Michael Borja - absent, also present were Deputy Director David Camacho, Land Administrator Margarita Borja, Legal Counsel Nicolas Toft, GALC Staff Land Agent Joey Leon Guerrero, and Recording Land Agent Stephanie Duenas.

[Chairman Ada mentions that before we continue on, Commissioner Wessling has to leave early today.]

III. **Approval of Minutes**

Chairman Ada approval on the minutes. We received the meeting packet from Stephanie via email but there's also copies there. everybody gets a chance to look at it.

Chairman Ada ask Commissioner Cruz does these minutes look better, the format that they're adding on the form.

Commissioner Cruz We must go with getting our meetings in order so, what I like to do is suggest that we go ahead and approve it. With any corrections on the audio but, I do remember there's no significant issue from that September meeting or August meeting. And there was no resolution I believe.

Chairman Ada there are two dates in the minutes August 29, 2018 and September 26, 2018.

Vice Chairman Laguana would like to make a motion to approve both minutes of August 29, and September 26, 2018 with some spelling errors that it would be corrected to be done.

Chairman Ada We have a motion to approve the consideration that if there's some spelling errors that it will be corrected, that it will be done.

Commissioner Cruz I second it.

Chairman Ada It's been moved and second it, Chairman Ada put the motion to a vote. All in favor of the GALC Meeting Minutes of August 29, 2018 and September 26, 2018 say "aye" [Chairman Ada, Vice Chairman Laguana, Commissioner Orlino, Commissioner Cruz, Commissioner Wessling, all opposed say "nay" **[Motion passed; 5 ayes, 0 nay]**

IV. **Old Business**

A. **Update Court Cases**

Nicolas Toft Legal Counsel spoke with Attorney Highsmith, says there is currently no developments. In the section 1983 case, we still have the section motion to dismiss that is still pending. The Supreme Court is not yet ruled on the disqualification issue regards to the Attorney General's Office. The WSTCO lease case has been argued and the decision is under advisement and we're just waiting on decision on that case.

Chairman Ada asked Attorney Toft if there is only one (1) more item in the 1983 case.

Nicolas Toft Legal Counsel I believe so, and we're just waiting on the decision for that one as well.

B. **Apra Harbor B-2 Phase I Easement**

Deputy Director David Camacho Paul Santos and Tom Torres from Survey Division of Department of Land Management is here to show us the tentative easement in Piti for your review and approval.

Paul Santos what you have in your packet is a tentative right of way. We labeled it Phase I Apra Harbor Reservation. It's really tentative because on the first presentation there was a lot of physical challenges that we had to go through. Those physical challenges are still there. It has not changed but, we need to move forward and so what we would like to do is propose a phase I and hopefully when the lands are being returned, we can do something with it and follow the layout. And then maybe we can work on a phase 2.

[Discussion of Apra Harbor Reservation Tentative map being showed on screen monitor. Please see attached for full content/context map.]

Chairman Ada asked Mr. Santos if Phase I is from Polaris heading back down to Cabras along the highway. Phase 2 is going to be further in.

Paul Santos yes. further south and in. we did get a response from the navy regards using the fuel. There's a fuel line road there and we thought that maybe we can use it on the southerly end.

Chairman Ada did that cause landowners to be landlocked because the military won't give a passage.

Paul Santos yes. We're trying to come up with something else, an alternative.

Chairman Ada is that allowed.

Deputy Director David Camacho it is allowed because most of the easement of the federal government is holding is not releasable to any government of Guam.

Commissioner Cruz this looks like a very workable solution to the plat. To apply for the landowners to apply for the easement because now we have a blue print to guide them and it's not workable, then they can talk to the surveyors to see how it's going to be suitable for everybody.

Chairman Ada Do I hear a motion.

Commissioner Cruz if the Director is requesting in favor of the approval of the Phase I blue print for access then I make a motion to go ahead and approve it.

Vice Chairman Laguana I'll second that motion.

Chairman Ada this location is at Apra harbor is also known as Apra Harbor B-2.

Chairman Ada It's been moved and second it. Chairman Ada put the motion to a vote. All in favor of Apra Harbor Reservation Tentative map say "aye" [Chairman Ada, Vice Chairman Laguana, Commissioner Orlino, Commissioner Cruz, Commissioner Wessling all opposed say "nay"]
[Motion passed 5 ayes; 0 nay]

C. Update Land Returned

Chairman Ada we haven't returned any lands.

Deputy Director David Camacho responds just one recently.

Chairman Ada asked who the owner of the applicant is.

Deputy Director David Camacho Lot 201, Mendiola in Piti.

Chairman Ada the listing that we have here, is this a complete listing or are we still working on some of it.

Margarita Borja It's still being worked on. We have to go down to District Court.

Vice Chairman Laguana I would like to move to appropriate a cap of twenty-five hundred dollars taken out from the Land Owners Recovery Fund for the purpose of advertisement of both Publicly Media with the purpose of sending emails out contacting original land owners.

Commissioner Cruz I second.

Chairman Ada seconded by Commissioner Cruz. There was no discussion noted, Chairman Ada put the motion to a vote. All in favor of the motion to approve the cap of Twenty-Five Hundred Dollars taken out from the Land Owners Recovery and for the purpose of advertisement. say “aye” [Chairman Ada, Vice Chairman Laguana, Commissioner Orlino, Commissioner Cruz, Commissioner Wessling all opposed say “nay” **[Motioned passed 5 ayes; 0 nay]**

D. Memorandum to GEDA Re: Northern Market Rent Deferment payment schedule

Chairman Ada I think we put this on here of the agenda the Northern Market Deferment payment schedule. We just put this to announce that the memo has been sent to Mr. Carlos Camacho and he did acknowledge it. But, would you like to do just the highlights of what’s going to happen with the deferment of the payment of the Northern Market.

[Chairman Ada notes that you all have copies of that in your packet.]

Tony Arriola I’m representing GEDA here. To my left is also my colleague. We’re actually here for the Old Business in memo regarding Northern Market Rent Deferment payment schedule.

- This approval for the extension of rent deferment shall be effective beginning October 1, 2018 for a one (1) year period **ONLY**, ending September 30. 2019.
- New Monthly Payment will be \$10,000 each month from October 2018 to September 2019.
- Interest of 1% per month of the deferred balance will be charged until paid.
- Payment of the deferred amount including interest, will be a lump sum payment once the construction loan is obtained within the one year (Oct 2018 – Sep 2019) rent deferral period.
- If the construction loan is not obtained during the one-year rent deferral period (Oct 2018 – Sep 2019), the **total amount deferred plus interest will be paid** in twelve (12) equal monthly installments beginning October 1, 2019 and ending Sep 30, 2020. During this period, **full rent (\$25,322.28 per month) will also be paid** by NM, in **addition** to the payments of the accumulated deferred amount with relative interest.
- Rent will escalate 10% in the year 2021. GALC approval of past and current rent deferrals will not change the escalation date of 2021.

Tony Arriola The table we presented to you folks.

Chairman Ada so October 2019 Northern Market will catch everything out. So that in October 2019 their balance due for the month is going to fall down into the fifteen thousand three twenty two.

Tony Arriola yes.

Chairman Ada asked Mr. Arriola would that be on October 2019 they'll pay that 1.6 to catch it up.

Tony Arriola yes exactly.

Chairman Ada Does Mr. Camacho feel comfortable with this. I know that he asked for one (1) year. So what's your take when you're speaking with him?

Tony Arriola we approved it on our September meeting.

Chairman Ada board any questions.

[No additional questions from the commissioners noted]

Tony Arriola may I add Mr. Chairman, here's what we're going to make all the way up to September 2019. If you look under the column under the deferred lease amount. On September 2019 we're going to be making three hundred and three thousand. Eight sixty seven point thirty six plus the interest of twenty six thousand three fifty one.

Chairman Ada so that's the larger figure that he's going to balloon it.

Commissioner Wessling well the letter here states that beginning October 1st 2019 and ending... it's going to be twelve (12) equal monthly installments. During that period the rent will revert back to the twenty five thousand per month and then the equal monthly installments of the amount that was deferred will be added onto the twenty five thousand, right?

Joann Cruz if the construction loan is not obtained.

Commissioner Wessling that's the condition if it's not obtained by that time so, if it's not obtained then what happens?

Joann Cruz then your correct he pays the full twenty five thousand three twenty two of twenty eight a month plus the deferred amounts get...

Commissioner Wessling equally distributed over a twelve month period, right? But, if he does gets the construction loan then off course, it will be a lump sum. But if he doesn't then it's going to be spread out over twelve (12) months.

Joann Cruz that's correct.

Chairman Ada asks Mr. Arriola anything else.

[No additional questions and/or comments. Chairman Ada closed the Memorandum to GEDA Ref. Northern Market Rent Deferment payment schedule.]

V. **New Business**

- A. Letter from NAVFAC to GEDA dated August 22, 2018 Ref. Annual reporting requirement for POI-5, POI-20, Tamuning Telephone exchange, and Route 2A

[Representing from GEDA are Larry Toves and Michael Cruz]

Larry Toves my name is Larry Toves and with me is Mike Cruz, we're both from GEDA and again, we're here just like we are every month to give you an update and status and particularly with the respect to the agenda item regarding the letter from NAVFAC. Just to give the commission a little history of this, when the deeds we're transferred from the military to the Government of Guam, there we're restrictions:

One of those restrictions is the use of the property, they had to be used for industrial type uses because that was a cleanup effort was just to industrial standards. If they we're going to use it for any other use, they would have to go to the Navy for approval and that would require more studies and so on, and so on.

And that point, in 2001 after we received deeds from the military, on public law local statute, we're required to transfer these properties over to Guam Ancestral Lands Commission for the eventual return of the original land owners. And so we did that, we deeded those same properties with the same restrictions to the GALC. The GALC deeded those properties to the original land owners. Again, same restrictions same requirements.

So, basically it was the land owners that are responsible to submit an annual report. Here we are the Navy is sending this letter to us. Now it's transferred over. Somehow, there's got to be some notification to the Navy that it's the land owners now that have control of the property.

Chairman Ada so, the board not following the stipulation by the Navy to keep it industrial.

Larry Toves well again, I think what's happening here is the Navy is only dealing with GEDA because at the time only GEDA was the local. The navy didn't recognize the commission at the time because this is not part of their transfer procedure. The procedure was to transfer these GLUP properties to the LRA. And that's what they did. To this day they still sign these letters to GEDA but, we've acknowledged to them that these properties have been transferred to the original land owners.

Michael Cruz prior to the transfer, the military cleaned up these properties to what they call industrial standards. There are only two (2) categories of uses under the cleanup process. You need to clean it up to the industrial standard which is a relatively lower standard. The other use is residential. Those are the only two categories industrial/residential. Industrial, that means commercial, it means farming. It just doesn't mean residential because if it was residential then, the military would have to clean up to a higher cleanup standard. Industrial means everything non-residential.

Larry Toves as we understand it today for example tamuning telephone exchange down the street is been sitting idle since we transfer. So, there's no activity on the property. But the property down at route 2A was returned to Mr. Bordallo and he since used that property down to construction and if you drive down there today it's being used as industrial.

Chairman Ada asked Mr. Toves if the property is at Agat.

Larry Toves responds yes. Now, the two (2) properties over at Tyan I'm not sure what they're being used for. Those were also returned to the original land owners. Our recommendation Mr. Chairman at this point is to respond to the Navy by saying that these properties have been returned to the original land owner and they would have to communicate with them based on local statute.

Vice Chairman Laquana asks Mr. Toves how many properties are there.

Larry Toves responded there are four (4) pieces.

Commissioner Cruz Is there any in Tyan.

Larry Toves there are two (2) parcels.

Chairman Ada asked Mr. Toves is this what you're referring to as POI-05 and POI-20, right?

Larry Toves responds a point of interest is what it says. When these properties we're turned over by the military they were points of interest because of the amount of the environmental conditions of the property. So, that's why they labeled it points of interest.

Chairman Ada we agreed that we should get out of it between that. But, if we go ahead and communicate with the Navy but, not to make it a surprise to the land owners also inform them. Will that be Land Management to let them know or will it be you folks to let them know.

Larry Toves at this point, we can draft something for the commission.

[Discussion ensues on the letter from NAVFAC to GEDA dated August 22, 2018.]

B. Proposed Position(s) Description

Chairman Ada we need to do a posting, right? But we need to agree what positions we're going to choose. There are five (5) different positions and I think Dave the one you recommend first is for not an Executive Director but, a Land Agent.

Deputy Director David Camacho because of the fact that Joey is on the verge of retirement and we need somebody to be well...

Chairman Ada we got another higher position, right?

Vice Chairman Laquana we requested for four (4) right, Mr. Director? I think there's four (4). Two (2) Land Agents and two (2) Administrators.

Deputy Director David Camacho it all depends on what's going to happen after January 6.

Commissioner Cruz asked how much time we are talking about here.

Vice Chairman Laquana Director what's your advice.

Deputy Director Camacho an approval from the board to hiring. And then, we communicate with our HR. and that's our suggestion is the Land Agent first.

Vice Chairman Laquana so how many positions are you suggesting now, just Joey's?

Deputy Director David Camacho just the Land Agent.

Chairman Ada asked is that position a Land Agent 3.

Commissioner Orlino responded no. Land Agent 2.

Deputy Director David Camacho the listing that they have right now. We know that there's a Land Agent I on listing available. on the 2 I don't know for sure. Then again, it's up to you guys is to what title.

Chairman Ada asked Director Camacho that he mentioned the Administrator Officer. The Land Agent is what you want.

Deputy Director David Camacho yes. For now. Department of Administration has a listing of Land Agent I available. And if we're going to open up a position it's going to take some time, maybe three, two months to advertise. If you open a position and there is an existing listing, you have to go with the existing listing. We could request for that.

Commissioner Cruz I suggest that we don't make any changes because if we make any changes then, we're subject to going to another process. Going to civil service commission and we don't want that.

Chairman Ada mentioned these are the positions descriptions provided. Everybody also got a copy since September 27th.

- Administrative Officer
- Land Agent I
- Land Agent II
- Land Agent III
- Land Management Administrator
- Management Analyst IV
- Program Coordinator III

Chairman Ada what was just previously discussed if we try to change this position description it's going to go to an even longer process because it has to be audited, right? So we just have to pick this. What I heard is a land agent I or land agent II, Dave?

Deputy Director David Camacho land agent I is available.

Chairman Ada we'll go ahead and post the land agent I. asked Joey Leon Guerrero are you going to completely retire or are you going to be on a part time basis or you haven't decided yet?

Joey Leon Guerrero I haven't decided yet.

Chairman Ada Everybody on agreement, shall we move it?

Vice Chairman Laguana I move to approve the land agent I position for the announcement and the publishing and the call.

Commissioner Wessling I second.

Chairman Ada seconded by Commissioner Wessling. Chairman Ada put the motion to a vote. All in favor of the motion to approve the land agent I position for the announcement and the publishing say "aye" [Chairman Ada, Vice Chairman Laguana, Commissioner Cruz, Commissioner Orlino, Commissioner Wessling], all opposed say "nay." **[Motion passed; 5 ayes, 0 nay]**

[Chairman Ada mentions that Commissioner Wessling is to be excused]

Chairman Ada no additional discussion for the Proposed Position Description.

Next item on the agenda –

C. Land Bank Account

Deputy Director David Camacho the account that we have with Coast 360. You have copies of that in your packet. We're going to ask the board to approve a TCD on the two (2) million that was derived from the sale of Waterworks. And we need approval from the board in order to put it in a TCD. On the two (2) million that I'm asking for to be put on a TCD for Waterworks I believe Mike prepared a Resolution already for signature.

Chairman Ada the proceeds of the sale are not in the TCD, right now?

Director David Camacho responds no. it's in the savings account. We deposited 3.5 million on the land bank account. But, to pull it out and put it on a TCD we need approval from the board.

Chairman Ada let's make a motion to put the proceeds of the seventeen acres into a TCD. For the purpose of the motion I like the exact amount of the purpose of that sale. We should place the exact amount from the sale into a TCD so, that we know that it came from GWA into savings, into a TCD.

[Chairman Ada mentions that the OPA wants to meet on December 10 or December 17. responded that December 10 is a good time. Each of you received a copy of the audit report. It's called an entrance meeting.]

Chairman Ada the motion is to be followed by a resolution being drafted by Director Mike Borja. To place the proceeds of the sale of the seventeen acres to Guam Waterworks in the amount of two million four hundred and ninety thousand even dollars. Place it into a term share, it currently sits in the savings. For 36 months in the rate of 2.40% and it's going to be still with the Coast 360 Federal Credit Union.

Deputy Director David Camacho mentions that to open the account that they have to fill out the application with their signature.

Commissioner Cruz I second that.

Chairman Ada seconded by Commissioner Cruz. Chairman Ada put the motion to a vote. All in favor of the motion to approve to place the proceed into a term share of the sale of seventeen acres to Guam Waterworks in the amount of two million four hundred and ninety thousand even dollars for 36 months in the rate of 2.40% say "aye" [Chairman Ada, Vice Chairman Laguana, Commissioner Cruz, Commissioner Orlino, Commissioner Wessling] all opposed say "nay." **[Motion passed 5 ayes; 0, nay]**

VI. Public Comments

[Chairman Ada would like to acknowledge Mr. Borja. No additional comments and/or questions noted. Chairman Ada closed the public comment period.]

VII. Director's Report

Chairman Ada no additional comments or and/or questions noted, Chairman Ada closed the Director's Report period.

VIII. Adjournment

Chairman Ada mentions there's no further discussion for the meeting and calls this meeting adjourned.

Chairman Ada motion to adjourn.

The regular meeting of the Guam Ancestral Land Commission Meeting for Wednesday, November 28, 2018 was adjourned at 4:15 p.m.

Approved by:

Date approved:

Anthony J.P. Ada, Chairman
Guam Ancestral Lands Commission

Transcribed by:

Stephanie Duenas, Recording Land Agent
DLM, Guam Ancestral Lands Division