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Austin J. Duenas  
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Arlene Bordallo  
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# CHamoru Land Trust Commission

(Kumision Inangokkon Tano' CHamoru)

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## COMMISSION MEETING MINUTES

Department of Land Management Conference Room

3<sup>rd</sup>. Floor, ITC Building, Tamuning

Thursday, December 19, 2019, 1:23 p.m. – 5:45 p.m.

Public Notice: The Guam Daily Post on December 12, 2019 and December 17, 2019

**Chairwoman Pika Fejeran:** Before we begin can we rise to cite the Inefresi.

**All:** Reciting the Inefresi

### I. CALL TO ORDER

**Chairwoman P. Fejeran:** Thank you everybody, I apologize for the late start. I would like to call the CHamoru Land Trust Commission Meeting to order, the time is one twenty-three p.m. and public notice for this meeting was in the Guam Daily Post on December twelve and December seventeen. Present today is myself, Pika Fejeran, Commissioner Amanda Santos.

### II. ROLL CALL

**Commissioner Amanda Santos:** Here.

**Chairwoman P. Fejeran:** Commissioner Arlene Bordallo.

**Commissioner Arlene Bordallo:** Here.

**Chairwoman P. Fejeran:** Commissioner Joseph Cruz.

**Commissioner Joseph Cruz:** Here.

**Chairwoman P. Fejeran:** Legal Counsel Nicolas Toft.

**Legal Counsel Nicolas Toft:** Here.

**Chairwoman P. Fejeran:** And Administrative Director Jack Hattig.

**Administrative Director Jack Hattig, III:** Here.

### III. APPROVAL OF MINUTES

**Chairwoman P. Fejeran:** Thank you everybody for being here. Commissioner Austin Duenas has called out, he's **\*\*inaudible\*\***. Now, I'd like to approve those minutes, I know that there are four sets of minutes that are pending Commission approval. We tabled three of them last month they didn't end up making it onto the agenda that we are looking at today but if we could all just note; June fourth, one set of minutes for review and approval, July eighteenth and August sixteenth and then the listed September nineteenth **\*\*inaudible\*\***. At the last meeting we discussed...I'm sorry, the meeting date is June sixth, the first meeting minutes. The Commission decided to wait until we had a quorum of commissioners who were present at the meeting so that everybody that was present could provide their input. Looking back at the June sixth meeting, there was only myself, Commissioner Santos, and Commissioner Techaira; she's no longer here. I wanted to ask, if the Commission is comfortable reviewing these minutes today despite the fact that we don't have three of us sitting at the table that were present. I had a chance to provide a detail review of this and there were three areas that I think need minor revision. The first is on page five, I think my question is...I know you guys are doing this verbatim, do you have to type out "um"? Perhaps we can skip that moving

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forward, save your fingers of those two keys but on page five there's a word that says, "cuz", I think the word that should be is because **\*\*inaudible\*\***. On page thirty-seven, the fourth person talking I believe... well, it says "Commissioner Hernandez I have a feeling that that statement; we need avocado..." should be **\*\*inaudible\*\*** to Francisco Hernandez and then on page forty-nine halfway down the page, I made the statement; "and what does that training entail" the word should be "en tail". I know they're just very minor comments for revision otherwise, I believe the content is accurate and as Commissioner Santos you are the only one sitting at the table today that was present at the meeting; do you have any comment?

**Commissioner A. Santos:** No.

**Chairwoman P. Fejeran:** Okay.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Legal Counsel N. Toft:** Yes, because you can rely on **\*\*inaudible\*\***

**Commissioner A. Santos:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** A motion has been made to approve the June sixth meeting minutes.

**Commissioner J. Cruz:** I second it.

**Chairwoman P. Fejeran:** Seconded it by Commissioner Cruz. Further discussion?

**All Commissioners:** None.

**Chairwoman P. Fejeran:** All those in favor?

**All Commissioners:** Aye

**Chairwoman P. Fejeran:** Thank you. June sixth meeting minutes have been approved. Next would be July eighteenth and August fifteenth, for those, I would like to wait until we have Mr. Duenas **\*\*inaudible\*\*** he's still on the Commission I would like to table those to give him the opportunity to provide comments. Is the Commission okay with that?

**All Commissioners:** Yeah.

**Chairwoman P. Fejeran:** So that would be July eighteenth, August fifteenth and the nineteenth. I know September nineteenth we just received a copy today **\*\*inaudible\*\*** so that's four, I'm sorry three meetings that are tabled. Before we move on, I do have a question, actually I wanted to bring up the Commission did ask the Director to put together the Director's Reports from our meeting that includes summary coverage, I've come to realize that that extra report could be a bit in cumbersome **\*\*inaudible\*\*** time and energy so I wanted to see if the Commission would be amenable to change that Director's Administrative Report based on the meeting to change it into something that can be done today **\*\*inaudible\*\*** instead of that Administrative Director's report that's very detailed. Maybe the best way to do it is document what's really important in the meeting is a list of just the motions that were made and passed so that the motions be listed out as we're going through the meeting and then at the end of the meeting they're presented for review and then they're signed off by the Director and then me as the Chairperson and then what that does, it will provide signed and approved document because what is going to be happening is as we start approving these leases, the leases will be brought to me for signature and I'm going to have to dig through all of my meeting notes and files to make sure that the lease matches the motion made. This could be the intermediate step so that when the lease is presented for signature, along with the lease is the signed and approved motions from the meeting that it was made.

**Commissioner J. Cruz:** Would that be applicable to item agenda or **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** I would think maybe just the motions, just the motions and then the document that covers the whole meeting would be the meeting minutes.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Yeah, just for the record and to get things going so there's really...

**Commissioner J. Cruz:** So, for the report, the title of the report that we're revising is the Director's **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Yeah, I think that was the name of it.

**Commissioner J. Cruz:** Now it's action report? Is that how we're going to be labeling it?

**Legal Counsel N. Toft:** So as far as minutes go, the one thing that it requires is that **\*\*inaudible\*\*** results in **\*\*inaudible\*\*** so anything above and beyond that is up to the board as far as **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay and clearly the minutes as they are prepared and presented satisfy the...

**Legal Counsel N. Toft:** Yes, because it's verbatim it goes...

**Chairwoman P. Fejeran:** It goes beyond that.

**Legal Counsel N. Toft:** Yeah.

**Chairwoman P. Fejeran:** Okay. So, what would we call it? We'll just refer to the motions we **\*\*inaudible\*\***.

**Legal Counsel N. Toft:** I'd say, motion summary.

**Chairwoman P. Fejeran:** Motion summary? Okay, motion summary. Okay just to recap, at the end of every Commission meeting, does the Commission want to review and approve it before the end of the meeting? Or will that be done offline for after we adjourn?

**Legal Counsel N. Toft:** I would say after, email it to the board for review and if there are any questions, it can be brought up at the **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** What I would like to do because things get kind of lost in email and everything, I would like the motion summary to presented and approved on the day of. Before I leave, I want to put my signature so that when I get that motion summary with the lease that is based off the motion it's very obvious that, okay, it was approved **\*\*inaudible\*\*** it can be hand written.

**Administrative Director J. Hattig, III:** I was just about say, you're okay with it being hand written? We can begin by making sure **\*\*inaudible\*\*** write down the motions **\*\*inaudible\*\*** and then present those motions to you before **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay.

**Commissioner J. Cruz:** Because all those actions are already... given we have the agenda on **\*\*inaudible\*\*** to make a motion on, right?

**Chairwoman P. Fejeran:** Yeah

**Commissioner J. Cruz:** Now, what if we were to summarize it according to **\*\*inaudible\*\*** right before or after the Commissioners' Comments put it in there **\*\*inaudible\*\***?

**Chairwoman P. Fejeran:** Okay, yeah, so let's do that. We'll have a trial run today. So that's a part of the Commissioners' Comments, we'll look at the motion summary, handwritten is more than fine for approval.

**\*\*inaudible voice recognition\*\***

**Chairwoman P. Fejeran:** Alright, thank you. Also, before we get going, I wanted to check in and see what's the status of the resolution based on the settlement agreement terms?

**Administrative Director J. Hattig, III:** I'm still working on the resolution. I'm trying to meet all of the terms that were discussed on the sheet. I really want to make sure that I don't miss anything and then I'll need to submit it to Legal Counsel for review.

**Chairwoman P. Fejeran:** I think we've discussed that the settlement terms would just be an attachment so we wouldn't be pulling any of that and making it our own.

**Administrative Director J. Hattig, III:** Okay.

**Chairwoman P. Fejeran:** A resolution just basically state that that document is an official document that's dated and time and **\*\*inaudible\*\*** so it really should have just been. It shouldn't be taking this long.

**Administrative Director J. Hattig, III:** My apologies. **\*\*inaudible\*\***. Yeah, I was trying to transfer it all but I should be able to provide it hopefully by tomorrow. If that's okay?

**Chairwoman P. Fejeran:** Okay. Yeah, I think the part that you can work on is more of the background as to why the resolution is put together, of course all the detailed information **\*\*inaudible\*\*** and I believe there is the other resolution that we had **\*\*inaudible\*\*** from a few months ago that you can look at and maybe just pull from that.

**Administrative Director J. Hattig, III:** We'll make sure we keep you and the rest of the Commission abreast of the transmission of **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** I wonder if we should **\*\*inaudible\*\*** that the Commission request legislative action based on the settlement terms.

**Legal Counsel N. Toft:** Yeah.

**Chairwoman P. Fejeran:** Okay. So, tomorrow Director?

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** Thank you and moving onto old business. We have number one, Agricultural and Residential Leasing, we have (a) Switched and transferred **\*\*inaudible\*\***.

#### **IV. OLD BUSINESS**

##### **1. Agricultural and Residential Leasing**

##### **a. Switched and Transferred Lease List**

**Land Agent II Jhoana Casem:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Okay.

**Administrative Director J. Hattig, III:** Prior to the approval of the agenda **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay. I wanted to bring up again about this topic: these are the null and void leases and I believe that I provided the Director with an email when we first started this endeavor, we're probably down to eighty something still on the list.

**Administrative Director J. Hattig, III:** Eighty-five.

**Chairwoman P. Fejeran:** Eighty-five, okay. We have been able to adjudicate seventeen of them **\*\*inaudible\*\*** quick but not as quickly as we had hoped. What I

wanted to have presented to us is more of a comprehensive strategy about how are we going to address this and I believe I sent you and email in this regard several months ago and I know the way that we have been adjudicate some of these, there's got to be other leases that are in the exact same boat, that they have the same situation. Right, for instance, the lease holder has passed away and the designated beneficiary declined the lease and instead passed it on to somebody else. I know that those situations **\*\*inaudible\*\*** in here. What I was hoping for is I know that we have adjudicated several of those. If we could adjudicate all of those same cases at the same time, get those cases off of our list, look at all those cases all at once so that we're addressing these pretty simply **\*\*inaudible\*\***. I would prefer that it's presented in that manner.

**Administrative Director J. Hattig, III:** I wanted to say that in reviewing those particular leases sometimes we do have situations that are similar but there's one or two things that are different that require an extra look and that's the reason why it's difficult to categorize that. Jhoana and I have been working to put something together plus also we have complex leases that were issued as a result of two transfers so we got to put that on the side first and then we try to take the easier cases. There are amended... and the other thing is that we were advised to provide at least five per meeting and not to overload the meeting with multiple, too many because sometimes it could get really cumbersome to go through each of them. So we've been sticking to that guidance and try to provide at least five per meeting on the voids so that we don't get a bit inundated with all of them but we could provide you again with the spreadsheet I guess, right, and you had indicated before that that's something you would like too; those that are similar and if there are any differences then we could indicate that there and then you can review that on a separate basis and we could make sure that we at least take care of the majority. I can provide you again with the matrix, we've done that before so we'll work to try to get that but, staff reports will still be developed individually just in case you'd like to see those one or two particular changes and I thank the Commission for all of their work in working with the staff and the agency to adjudicate the seventeen. We've come so far and I'm confident and I did ask the legal counsel for guidance on how we can apply, if possible, on what you're suggesting, if we can apply the same to everybody, then can we do that immediately because I want to make sure that we protect the commission in and its work.

**Chairwoman P. Fejerman:** The intent is not to apply **\*\*inaudible\*\*** but the intent is if we're going to spend time looking at a case, it's a lot easier if they're all in the same category for how we may be able to adjudicate them and then we would have to look at those case by case and make the motions based **\*\*inaudible\*\***. So maybe at the next time when we are presented with certain cases, if you can provide us the remedies that we've been able to accomplish based on those certain indications that would be helpful too.

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\***

**Chairwoman P. Fejerman:** Great. Thank you. Sorry one more thing for this. I'm concerned that, I just want to make sure that we are looking at those that are on our list. I believe that priority will be for the individuals that are currently **\*\*inaudible\*\*** or occupying on the property. I'm not sure how you guys are prioritizing on this but I just want to check and see if you guys are able to help us adjudicate those faster. As you know, Mr. Celestial **\*\*inaudible\*\*** resides on the property, was very concerned and if

somebody has a material interest then the concern... I want to be able to get to those as soon as possible.

**Administrative Director J. Hattig, III:** We'll add that to the factoring of the prioritization. Our prioritization was based on whether we were able to offer a solution based on the cases given so the easiest got a little more priority because we want to get them adjudicated quicker and then the ones that were a little bit more complex that required more research, they were prioritized down **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay. Understood. Thank you. Does the Commission have any comments for the switched and transferred leases, the null and void?

**Commissioner J. Cruz:** Did we entertain those cases? Do we keep a diary of the **\*\*inaudible\*\***?

**Administrative Director J. Hattig, III:** Absolutely we have the status information sheet is our diary for every time we contact or they contact us so we do have chronological review. I wanted to ask a question though, before we get into the Commission's intent to adjudicate these first before we **\*\*inaudible\*\*** anymore request for leases because as I understand it, the moratorium has still been placed, we have not issued any new leases until we get through the void and that's my current understanding so I just want to reaffirm that today, if that's correct because we've been preparing any new leases have been based on the pre-occupier status which we've acknowledged but we have not prepared any new leases that's for the next people in line yet because of the existing moratorium and I don't recall in looking at the minutes that were approved in lifting of any of that moratorium yet or at least a vote for the commission to do so. I just want to reaffirm or get Commission guidance.

**Chairwoman P. Fejeran:** Okay. My recollection is the two are not related. The holding off on the new leases was until we have a standard operating procedure that we see that once we do get to new leases that know that the agency is in line with the rules **\*\*inaudible\*\*** so, it's the standard operating procedure that which is actually the next one on the agenda. We were presented with an updated Standard Operating Procedure.

## **b. Proposed Standard Operating Procedure**

**Chairwoman P. Fejeran:** I appreciate that you put this into what looks to me like a standard operating procedure, thank you for that. I do also like that it's very straight into the point. Has the Commission had a chance to review this?

I had request...

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\*** Yeah, there should be two separate... **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay, does the Commission want to go page by page in reviewing it and provide any comment.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** So, it is the agency's standard operating procedure and this documents the process an application to administration of a lease and this is a draft and then you have the table of contents, part one is the application process, part two is qualification process, part three is lot reservation, part four is lease issuance based on **\*\*inaudible\*\*** lease compliance and then penalties and termination. This basically takes it through the entire leasing process from applying for the program to having a lease.

Page one **\*\*inaudible\*\*** overview **\*\*inaudible\*\***. I believe we should be referencing the enabling legislation for this for **\*\*inaudible\*\*** CHamoru Land Trust Act and the Public Law 23-38 and then it goes into management. The administrative services division, there's a human resource **\*\*inaudible\*\***? Is that right?

**Administrative Director J. Hattig, III:** Yeah, we handle all of our human resources, the hiring and the process, we're separate now so DLM... before it was DLM's Administrative Services Division who did it but now we're on our own so we would hire, we would handle our own hiring.

**Chairwoman P. Fejeran:** So, we don't use Department of Administration for that?

**Administrative Director J. Hattig:** Well we communicate with DOA to that process but Joey handles that.

**Chairwoman P. Fejeran:** So, we're not completely standalone?

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** Okay. Does the Commission want to move on to part one?

**Chairwoman P. Fejeran:** Alright. So, starting with application form, **\*\*inaudible\*\*** information and interview. There're two places to get the application form, online and in person. I'm really glad that we're doing this because I've indicated the tentative settlement terms, a lot of this is going to have to change. I'm glad you're able to put down what's current so that when we do have to change it, we know exactly where to **\*\*inaudible\*\***. Required information for submittal, they must select the type of application; residential or agricultural and they are allowed to apply for both. I know there was an ambiguity in the rules and regulations **\*\*inaudible\*\***. I know some of our applicants claim they were told they could only apply for one. Is the Commission okay with **\*\*inaudible\*\*** that the applicant can apply for both?

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** I assume they would have to pay for two applications?

**Administrative Director J. Hattig, III:** Yes ma'am.

**Commissioner J. Cruz:** Would that cover both? **\*\*inaudible\*\***

**Legal Counsel Toft:** Both, one for agriculture **\*\*inaudible\*\***.

**Commissioner J. Cruz:** **\*\*inaudible\*\***

**Legal Counsel N. Toft:** Well they can still grow plants.

**Chairwoman P. Fejeran:** When a lease goes **\*\*inaudible\*\*** it would be based on one or the other application, it wouldn't be both, right?

**Commissioner J. Cruz:** But then we have a level of **\*\*inaudible\*\***.

**Legal Counsel N. Toft:** I don't think there's any **\*\*inaudible\*\***.

**Commissioner J. Cruz:** If we allow them to apply for both **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** No, they don't have a parcel yet. So, one lease would be the result of one application. So, if we're entertaining applicants from residential, then if that applicant is up next **\*\*inaudible\*\*** we could be **\*\*inaudible\*\*** from their residential application and then they would still have an agriculture application and stay on the waiting list. Does that kind of separate them? So, they would have to fill out two applications and their names would be entered on both waiting lists.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** **\*\*inaudible\*\***

**Commissioner J. Cruz:** As long as you don't update the requirement of getting two full leases... **\*\*inaudible\*\***.

**Legal Counsel N. Toft:** The rules are severe to the standard operating procedure as far as **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay on number three, applicant must provide the following information and there's a list of stuff here. I wanted to ask, what does it mean, provide the following information? Do they just bring their passport and then the **\*\*inaudible\*\*** or are they told to make copies and then submit it when...?

**Administrative Director J. Hattig, III:** Either way could work. We're just giving them the standard information that's provided to include their identity, number one, that's by the driver's license or their U.S. Passport if they don't have one; the birth certificate is used as a qualifying document so we get that up front.

**Chairwoman P. Fejeran:** Yeah, I understand the purpose of this but I'm just asking, is the Trust affording the cost of making photo copies for these people? The times, the photo copy cost etc....or are we requiring the applicant to bring a copy themselves and submit it with the application?

**Administrative Director J. Hattig, III:** Normally they, we would do either way. Didn't matter if the application brought in the original and we would copy it and put it as part of the file but if they brought in a copy then we would add that to the file. So, it goes either way. It was dependent upon the applicant of their ability to **\*\*inaudible\*\***.

**Commissioner J. Cruz:** So, all this information that we're asking is based on the... are any of these recertified or...

**Chairwoman P. Fejeran:** There is a notary requirement. Is that what you're asking?

**Commissioner J. Cruz:** No **\*\*inaudible\*\*** like a verification of a marriage certificate?

Verification of a...

**Chairwoman P. Fejeran:** Verification of an original? So, they'd have to bring in the original and then we'll make the copy.

**Commissioner J. Cruz:** But this is not going to be public record?

**Administrative Director J. Hattig, III:** Any personal information, we're not allowed to release.

**Legal Counsel N. Toft:** No, but the record itself is public.

**Chairwoman P. Fejeran:** Are we allowed to ask for social security numbers?

**Legal Counsel N. Toft:** We're allowed to, but a lot of the government agencies have been trying to do away with that recently because there's the possibility that those get **\*\*inaudible\*\*** up by accident during a FOIA request or **\*\*inaudible\*\*** things like that so I don't...

**Commissioner J. Cruz:** **\*\*inaudible\*\*** we were mandated to strike out all the ss numbers through the original documents.

**Chairwoman P. Fejeran:** I seem to remember that there was a law that says, you can't ask for social security numbers.

**Legal Counsel N. Toft:** I can check on that.

**Chairwoman P. Fejeran:** Okay, could you look into that because...

**Commissioner J. Cruz:** That's why I ask because if it's going to be a public record or not because I don't think we can make it a public record if...

**Administrative Director J. Hattig, III:** Oh yeah, we would never...

**Chairwoman P. Fejeran:** Okay, yeah, Nick if you could look into that with the social security. I guess I just wanted to **\*\*inaudible\*\*** you know when I go and I apply for things anywhere else; I have to bring the original and a copy to leave there with my application. That puts all the effort on the applicants, does the Commission want to require that also or recommend that? Because then that will be a policy **\*\*inaudible\*\***. I think what it'll do is it will cut this time that the land agents are



**\*\*inaudible\*\*** it will reduce the time spent with each applicant if it's a simple; let me see your originals, okay; let me have your copies, alright you're good to go.

**Administrative Director J. Hattig, III:** We'll put that in the SOP, agency's policy.

**Chairwoman P. Fejeran:** Okay, when the application is turned in with all of those documents, that's when an interview is conducted, every time?

**Administrative Director J. Hattig, III:** Yeah. That was from the previous administrations practice so we conduct the interview based upon submission of right when they submit the application.

**Chairwoman P. Fejeran:** What is it? What are you interviewing?

**Administrative Director J. Hattig, III:** Well there's an interview sheet that's already provided in the file and they take information such as who the beneficiary would be and other...

**Chairwoman P. Fejeran:** And they do this before they even know they can come and qualify for the program?

**Administrative Director J. Hattig, III:** I've reviewed a lot of interview sheets that were a part of their case files so this is that portion of it and maybe if some of the employees that had been here long enough can also provide some information about that because they have been really the backbone behind the interview process.

**Chairwoman P. Fejeran:** Yeah, I'm just wondering if it's necessary at this very early stage to have an interview because they have already submitted all the documents that are required.

**Administrative Director J. Hattig, III:** And that could be the Commission's decision.

**Chairwoman P. Fejeran:** Yeah, if we could get some more information on why an interview at that point in the process is necessary. Notary requirements, the application must be notarized, right? Do you guys have an example file application? Okay, so the application itself is notarized? And we have staff on hand that performs that, notarized.

**Administrative Director J. Hattig, III:** We have two staff that are notaries public.

**Chairwoman P. Fejeran:** Notary public, okay.

**Administrative Director J. Hattig, III:** Yes, just for CLTC documents only.

**Chairwoman P. Fejeran:** Right. Okay. The application itself needs to be notarized. Can they go anywhere else to get this notarized?

**Administrative Director J. Hattig, III:** Yes, they can.

**Chairwoman P. Fejeran:** Do they pay when they come to you guys?

**Land Agent I Tina Tainatongo:** Not as a government notary.

**Chairwoman P. Fejeran:** Okay and **\*\*inaudible\*\*** specify that once they applicant has turned in their application, do you notarize it if there are still documents pending from them?

**Land Agent I T. Tainatongo:** As a notary, we could only notarize if you have a valid U.S. ID., so it wouldn't matter if they were pending their birth certificate or marriage certificate as long as it's the person who is going to have their signature notarized is present with a valid ID.

**Chairwoman P. Fejeran:** Okay, we might have to move that notary requirement up to one point one, right. You need the application form; you need these documents and then you need it notarized.

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Maybe if you could provide more information if that is necessary at this point.

**Commissioner J. Cruz:** **\*\*inaudible\*\*** in that case, on that if you're doing notary **\*\*inaudible\*\*** in itself, usually indicate that as a review check list so that by the time you are done with the review check list, the submission of the application should be sufficient. Because right now the ones that are **\*\*inaudible\*\***. Whether it's a review check list, or an interview check list, you can title it whatever but it's a check list of what you didn't get **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** So, you're talking about reviewing a complete application?

**Commissioner J. Cruz:** Well if you notarize it and you have one or two items that are missing and the time that you've submit it, it has already been reviewed that all the items necessary **\*\*inaudible\*\*** with the application.

**Chairwoman P. Fejeran:** So, you're saying it shouldn't be notarized until all documents are received to support a complete application.

**Commissioner J. Cruz:** **\*\*inaudible\*\*** the only requirement needed for notary is the ID card because it's the signatory **\*\*inaudible\*\*** toward the application but submission that we have to review that all required documents are **\*\*inaudible\*\*** before you submit the application.

**Chairwoman P. Fejeran:** Before it's considered complete and ready for review.

**Commissioner J. Cruz:** Yes, because on item number eight, submission of application **\*\*inaudible\*\*** completion of all necessary notary documents the application form is **\*\*inaudible\*\*** that should be already done, correct?

**Administrative Director J. Hattig, III:** Sometimes we have applicants who are just ready to submit the application and they delay in the process of turning in the qualifying documents, all the other documents that are required so in this, the way they set this up is; we receive the application based on whether it's completely filled out and whether it has all the information that they need and we stamp it received and it becomes just the application and then when they submit the documentation for qualification and they satisfy the qualification, I give them a letter according to the law, I notice them to see that they are qualified and then they can pay their fifty dollar application fee so that they don't pay before they know that they're qualified because if they're unqualified.

**Chairwoman P. Fejeran:** I'm glad you brought that up. I'm believe that if we're going to be looking and considering somebody and using man hours, that's what the application fee pays for and... I think that we have to **\*\*inaudible\*\*** the complete application and what are the requirements for a complete application in order to get a time stamp. I think a complete application you know we are talking about process **\*\*inaudible\*\*** so I'm glad we're talking about this because I know that there's a lot of back and forth in how it was practiced. Just going through my experience with other agencies, once you get a timestamp and a numerical designation that means that you have satisfied everything asked of you and then you get your timestamp designation and then you are considered and then you are reviewing the document to see if they are eligible under the program, right?

**Administrative Director J. Hattig, III:** Well, what I'm suggesting though is actually before we timestamp them, I'm suggesting that maybe we should qualify them first because if we timestamp them and then they're not qualified, what happens to the application? I mean there would be a period of time when they could seek further documents to qualify so if you put a timestamp on it for a numerical designation; they're going to be inline but not necessarily qualified yet and I wanted to prevent that from happening.

**Chairwoman P. Fejeran:** I get it, but what is it to say that somebody is going to come in and say, no, I submitted all of my documents and I know that guy submitted a month after me; why is his time stamp before me. I think it leaves to much room for error and we need to have it as soon as the applicant has completed everything required of them; they've filled out the form, they've submitted copies of all the required documents, they've had it notarized and they've paid their fee. Then that's when they get their timestamp or maybe that... I see, that's why you want to put it received...

**Administrative Director J. Hattig, III:** Right, that's why I just want to stamp the application received first on the date that they turned it in and then they can come back later to submit their supporting documents if they have it because I'm required by law to review that within thirty days of submission so I don't want the... Is the thirty days going to start already, or are we going to timestamp them with

their numerical designation and then the thirty days begins so I kind of wanted to purpose that, you're right, exactly that all three requirements should be before they qualify because if they don't satisfy all three then they're not qualified automatically right. If they don't submit their documents, they don't pay and certain people have come and said, why do I have to pay if I don't know that I'm qualified, I don't get that money back if I'm not. So, to help that, the staff and I have thought this through and we're trying to provide that process if you want to see as transparent, we'll let them know exactly what they need and when they need it. It won't be in numerical designation until you meet all three requirements and I'm hard-pressed within that thirty-day period, I need to do all my due diligence to make sure they qualify within that time.

**Legal Counsel N. Toft:** I **\*\*inaudible\*\*** support that it helps out, if you could get one that's complete that's been there that's timestamped and let's say we make our way down the list and then we start getting these incomplete ones we don't have **\*\*inaudible\*\*** and we pass them up, do we contact them and **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** And how are things **\*\*inaudible\*\***?

**Administrative Director J. Hattig, III:** Well we're attempting to make that happen now, we're advising them that please if you want to pay, you can but we're advising you that if you are not qualified you won't get the payment back, it's a nonrefundable payment. So, we are currently in practice of informing the applicant.

**Chairwoman P. Fejeran:** Okay so the first step, the flow is the applicant turns in all documents, the application itself, notarized and they pay the fee and that's when they get their received stamp.

**Administrative Director J. Hattig, III:** Actually, the qualification has to be given within that time period, all of that. I want for them to be able to be qualified before we give them their timestamp because if they're not qualified...

**Chairwoman P. Fejeran:** There's a difference between a timestamp and a stamp received right?

**Administrative Director J. Hattig, III:** Yes, there is.

**Chairwoman P. Fejeran:** There's a received stamp that shows us that we received all of the documents and then...

**Commissioner Cruz:** Why don't you change the received date to a processing date; because when you start your payment, that's when you say received payment but while you're doing your interview or you're cross checking **\*\*inaudible\*\*** and when you do your actual... when do you want to call the thirty day start date?

**Administrative Director J. Hattig, III:** As soon as they submit their documents, I have thirty days. So as soon as they submit their qualifying documents, I have thirty days to qualify them so as soon as they submit their birth certificate, I qualify them immediately and I send them a letter and then we request for payment because their application has already been submitted.

**Chairwoman P. Fejeran:** I think we need to be getting payment upfront.

**Commissioner J. Cruz:** The processing should be a part of the payment, because on your interview here, it says, interview document will become a part of the applicant's case after the qualification. I mean why can't we just stick with this **\*\*inaudible\*\*** review under your processing date with your payment and then right after you meet the qualifications that's when you issue a notice. **\*\*inaudible\*\*** within thirty days of the submission determination based on the document provided, the applicant will be **\*\*inaudible\*\*** by the qualification. You would already know that **\*\*inaudible\*\*** when you do the interview, the rest of the mandatory documents.

**Administrative Director J. Hattig, III:** Sometimes we won't because their birth certificates are not...they're either born elsewhere.

**Commissioner J. Cruz:** While you're still doing the processing?

**Administrative Director J. Hattig, III:** Correct and so, they would need that time, that thirty-day period to go to M.A.R.C. maybe to research a little bit more about their lineage to make sure they can provide us with documentation.

**Commissioner J. Cruz:** But that thirty days won't start on the processing date; it can start on your...

**Chairwoman P. Fejeran:** The day that everything **\*\*inaudible\*\*** I'm looking at the rules and reg and **\*\*inaudible\*\*** completed application shall be timestamped and is accepted by **\*\*inaudible\*\*** numerical designation and file in the order it was received. A complete application to me, means that they've fulfilled all of their duties, so a complete application is the; application, it's notarized, they have all of the documents required and they pay the fee...oh no, so they pay the fee within thirty days, that's their **\*\*inaudible\*\***. In order to get the timestamp according to the law, it says, we have to timestamp when a complete application package is provided.

**Commissioner J. Cruz:** That's the promising date **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Right. Once that's timestamped that starts the thirty-day call. On their end, they have thirty days to pay the fifty dollars on our end that's when we look at qualifying the individuals.

**Administrative Director J. Hattig, III:** Then we'll follow the procedure but then what happens if they don't make the payment within thirty days? Because I know that becomes the unpaid application process, yet a numerical stamp has been given so I just want to know, how are we going to handle that? If we've already timestamped them and given them the numerical designation and the thirty days is up...

**Chairwoman P. Fejeran:** I think it's pretty clear they have to... **\*\*inaudible\*\*** I guess that would be a policy set by the Commission, right. If they don't pay within thirty days, what is the policy?

**Commissioner J. Cruz:** Yeah, we can. Can we ask, during the processing period section one **\*\*inaudible\*\*** request for a deposit **\*\*inaudible\*\*** because you already have the payment upfront as a deposit or because if they don't pay within thirty days they're going to keep **\*\*inaudible\*\***?

**(Multiple conversations)**

**Chairwoman P. Fejeran:** They get that timestamp when all documents, the application and it's notarized that's when they get the timestamp that starts the thirty days. You already have everything to review, right? That starts your thirty days and then they have thirty days to pay the fee and then once those thirty days are up, maybe if you find them qualifying for the program you send them a letter and then we find out they haven't paid within the thirty days then we ask them to resubmit or...

**Commissioner J. Cruz:** Check how you when you request **\*\*inaudible\*\*** you pay a portion of **\*\*inaudible\*\*** you pay the rest so we can hold the deposit of fifty dollars and then apply within the **\*\*inaudible\*\*** right.

**(Multiple conversations)**

**Chairwoman P. Fejeran:** I understand that the administration timestamping applications that we end up finding out that they're not qualified but in that case, if they are unqualified then that goes in the unqualified applicant file and if there's ever a question why are their numbers skipped **\*\*inaudible\*\*** when we should be reference, well, applicant number x-y-z is unqualified.

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Based on that, if you could revisit and revise part one.

**Administrative Director J. Hattig, III:** Part one, Section one point three which is the whole **\*\*inaudible\*\*** right?

**Chairwoman P. Fejeran:** Yeah, I think so and also part two qualification.

**Administrative Director J. Hattig, III:** Okay and you want to put qualification as part of the processing, right? Qualification is going to be a part of the processing from the beginning?

**Chairwoman P. Fejeran:** Yeah, it's up to you, you might want to end part one application; you might want to end it at a complete application has been received by the **\*\*inaudible\*\*** and then part two will be the processing and qualification **\*\*inaudible\*\***.

**Commissioner J. Cruz:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Yeah. Right. I know we have a lot on our agenda and we have the parties in the audience that I would like to get to. Thank you all for your patience. I don't want to go into details but I would like to ask at our next meeting if we can review this again with those revisions. For part three, please add in information on how the waiting list for both waiting list are processed. There's nothing in here about that and I want to see how you guys administer and manage the waiting list. How do you...do you go straight to numerical designation. There's no info on how the waiting list is processed.

**Administrative Director J. Hattig, III:** Okay.

**Chairwoman P. Fejeran:** And I think lot reservation to me, it sounds like it's really big somehow you were doing things on an applicant base, individual applicant bases, you were entertaining applicants on a one and one basis and as we've learned, our waiting list has been divided based on your last name and it has been given out to land agents based on your last name, right, and to me that does not sound, I don't think it's a practice that is a fair way to do things because what if a certain land agent is able to get through ten of the people on their waiting list and another land agent is hung up on one of them; that means we're not following the first come first serve as mandated by the law.

**Administrative Director J. Hattig, III:** Currently, we are not even doing it that way anyway.

**Chairwoman P. Fejeran:** Well if you can document that so we have an overview of it.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\***

**Commissioner A. Bordallo:** Okay just wondering. I just want **\*\*inaudible\*\***.

**Administrative Director J. Hattig, III:** I just wanted to say the lot reservation process is based on the declination language that is in the law **\*\*inaudible\*\*** so we can put this together as perhaps a fair way transparent fair way put down to tell us where they want to live and then we should show them where is available on the inventory and then we agree on the three lots that they will like to see and then we take them out and show them the approximation of the lot and then they decline which will notarized because certain people have said they declined but then they really didn't and then the acceptance is also notarized so that we have a document that holds them accountable for the agency and the land agent to process the lease as soon as we have the date and time we can look on our list and say, you're next and we have the numerical designation and we can just apply that and we get them a lot a soon as possible and then we can come to you for the Commission to issue a lease **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** So for that part, part three, if you could just refer back to the rules and reg on contracts for award priority and then residential track leases award six point one, six point two **\*\*inaudible\*\*** so we're just missing on how the waiting list is processed and how I think even how lands are identified that are available. That was very controversial, there were allegations that when they were offered property; they weren't offered certain property in Barrigada Heights. I just want to avoid that, how do you; one, process the waiting list, two, how do you identify that it's available.

**Administrative Director J. Hattig, III:** Property is on three point two on section b "the land agent will utilize the most recently updated land inventory GIS/LIS and any current masterplan that **\*\*inaudible\*\*** in the lot reservation process", that's the summary of how we identify our properties when they are available.

**Chairwoman P. Fejeran:** I'm glad you brought that up. At a certain point in time a land agent, what do they do, do they print out a whole list of available properties and they offer that to the applicant?

**Administrative Director J. Hattig, III:** Well they try to narrow it down as much as possible based on the applicant's request where do they want to live and then view the GIS for what available properties in that area and then from there we can reach further, we can tell them if there's power and water, we can tell them if there's access, we can disclose all this important information to them.

**Chairwoman P. Fejeran:** Again, it sounds like we're facing our **\*\*inaudible\*\*** our applicant **\*\*inaudible\*\*** I think that we need to refocus and base our work on the properties that's available. So we've identified maybe once a quarter we identify all of the properties that are ready for leasing and then that's when we go out and go through the waiting list and say, these are the properties available for this quarter and that's when they can decide, yes, I'll take it, no, I won't and then **\*\*inaudible\*\***. I think the way to be is property focus versus applicant focus because I know that the staff has been sitting there. You know there are certain applicants who have said, yes, I'll take that one and then they come back here and say, no, I don't want that one and we're continuing to service them.

**Commissioner J. Cruz:** On this **\*\*inaudible\*\*** you say any master plan, are these master plan aerial wide or parcel wide?

**Administrative Director J. Hattig, III:** What we have on certain tracks, we already have a master plan done out and it has individual lots and it **\*\*inaudible\*\*** severed out but sometimes those masterplans change from time to time based on certain factors so they have to take into consideration, if there are any on hand, if we have any approved ones in that subdivision or in that track or in that area or anything at all. You have to take that into consideration as part of **\*\*inaudible\*\*** anything that was planned out earlier. We take a look at that first because it could have been, you mentioned earlier there are masterplans that are already carved out. These lots that are **\*\*inaudible\*\*** we've already done some of the work, so let's take that into consideration also because, you know, we're not going to duplicate our efforts, right.

**Commissioner J. Cruz:** I understand that but when you say, masterplan, are these considered as subdivision masterplans or are they considered **\*\*inaudible\*\*** masterplan because I'm relating to this masterplan and as we go down to three point three, I want to know how did we give the survey authorization if you already have all these masterplans in place, having all these lots available for selection. Where does this survey authorization **\*\*inaudible\*\*** on this SOP?

**Administrative Director J. Hattig, III:** Okay, what I'll do is, I'll **\*\*inaudible\*\*** definition of masterplan because I don't know the difference between a subdivision right now, I just put down masterplan so that we can have a **\*\*inaudible\*\*** and then the Commission can guidance on what types of plans.

**Commissioner J. Cruz:** **\*\*inaudible\*\*** a subdivision masterplan that was approved by previous commissions, previous board and see where we're at. If we finalized that subdivision in itself to describing the lot, the individual lot like blocks or by parcel or maybe because you know a subdivision should have tract.

**Administrative Director J. Hattig, III:** Okay.

**Chairwoman P. Fejeran:** I see this **\*\*inaudible\*\*** and this is a consumer guide, right?

**Administrative Director J. Hattig, III:** Yes. It's supposed to be included with the proposed SOP.

**Chairwoman P. Fejeran:** Okay. Great, so we're just going through and revising part one and two and then adding more information to part three **\*\*inaudible\*\***. I really like this, this applicant guidelines that you guys created, thank you. This takes all the pertinent information from our SOP and **\*\*inaudible\*\*** format that is easily understood and read by our applicants.

**Commissioner J. Cruz:** User friendly.

**Chairwoman P. Fejeran:** User friendly, exactly, so this is great.

## OLD BUSINESS

1. Commercial Leasing

### a. Guam Racing Federation

**Chairwoman P. Fejeran:** Okay moving onto the next item on the agenda, Old Business, Commercial Leasing; Guam Racing Federation. The last we met with the team here so they continued November **\*\*inaudible\*\***. Hi guys, thank you for your patience. The last we left it; we don't have a packet. Is that right, Director? **\*\*inaudible\*\***.

**Henry Simpson:** I prepared a packet I'd like to explain page by page **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay thank you. If you could state your name for the Commission, for the record.

**Henry Simpson:** Thank you, Henry Simpson for the Guam Racing Federation.

**Steve Radonich:** Steve Radonich, Smithbridge Guam.

**Mr. H. Simpson:** I wrote a cover letter asking that Smithbridge be allowed to continue and that our lease be approved and I put a quick note as to what is our short term plan for the three years as to clear our roadside frontage for a gas station **\*\*inaudible\*\*** and our longer term plans are three to ten years to finish the formula three track and hold our first Guam Grand Prix so the second letter in here is a letter from our actual project manager DCA -Duenas Camacho and Associates- is designated the project manager from the engineering side and so basically this letter says, we've been following a masterplan the last twenty years and that they're willing to help with any questions or anything else that you guys have and that we're still following this masterplan even this latest grading plan is based on the masterplan and then the memorandum of understanding is the agreement between Smithbridge and Guam Racing Federation for the work to be done on the tract and then the next one is the summary of the outhaul from GRP, Guam Raceway Park is what they put **\*\*inaudible\*\*** these are the amounts of material and the months that were removed and the total that is extracted and the dollar amount due to CLTC there. The next one is a projected amount of material to be removed and it's tied to this picture, if you take this picture, you can see the zone numbers on this and it's these five different areas and that's the projection of the amount of material that would be removed out of there and then the last one is an actual timeline for activity. What actual happen this whole time and then the last one to that is we cut you a check. I'm sorry, one got away here, this picture is the topple survey of the phase five-A one, the one that we're doing now, the four acres that we talked about the last time so when you look at this map it's this piece right here and the end of the drag strip. This is the starting topple for it so when the grading is done, we'll be able to actual do the engineering and find out exactly how much has been taken so I'm sure there's a lot of questions.

**Chairwoman P. Fejeran:** Thank you. If you could just give us a few minutes to...

**Mr. H. Simpson:** Sorry we didn't get this to you earlier. It took us awhile to get it all together, we were still doing it this morning.

**Commissioner J. Cruz:** Your zone is to the left, when you say zone one, two, three, four, five, it's to left?

**Mr. S. Radonich:** Yes, they have **\*\*inaudible\*\*** so that's zone one we're looking at now. They've got zone one-A then it goes to two, three then four, five.

**Chairwoman P. Fejeran:** Are we ready to discuss? Okay. I guess I'll start, I have a question; your letter as you mentioned is requesting that we allow Smithbridge to continue to work on phase five-A? Can we be more specific, phase five-A area one?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** Okay because as indicated area 1one has five zones, right, and area one is the boundaries of the yellow line?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** So, you're requesting phase five-A one to continuing and that whole area has been permitted?

**Mr. H. Simpson:** Yes.

**Commissioner J. Cruz:** Before you say yes, could you get the permission of this **\*\*inaudible\*\*** because you mentioned earlier, you had a grading for the whole tract? Is that correct?

**Mr. H. Simpson:** Not the whole tract. They're **\*\*inaudible\*\*** half of the tract, it's on the map **\*\*inaudible\*\***. This is a subzone of that area.

**Chairwoman P. Fejeran:** You provided this last time, right?

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** That includes phase five-A area one and then you have much larger part also named phase five-A that you haven't present yet.

**Mr. H. Simpson:** This is the one on the last building permit, so on the heavy lines, that's the area that's permitted. That's the total permitted area so all we're working on now is in this drawing listed as area one.

**Commissioner J. Cruz:** And you're coming in with increments?

**Mr. H. Simpson:** Increments of that, yeah, but it's all permitted.

**Chairwoman P. Fejeran:** All of phase five-A is permitted?

**Mr. H. Simpson:** Yes.

**Commissioner J. Cruz:** So, if you're coming in for the approval from us to give you a partial excavation for grading, are you going to request for an amendment or a revision grading permit for just the four acres or just the three acres that you're coming in?

**Mr. H. Simpson:** Yes, because we'll just do this one section first and then we'll come back to you guys.

**Commissioner J. Cruz:** But are you going back to Public Works again for a separate permit to say...

**Mr. H. Simpson:** No, we don't need to because that's already under this. We're just going to do it partially as Steve explained before, if we were to clear that all area with all the debris by the time we finish this four acre section, the other would grow out, so we're going to do four acres then clear the other one, get it ready.

**Commissioner J. Cruz:** That's why I'm asking because you're coming in increments and you have gotten an overall grading approval for a grading permit.

**Mr. H. Simpson:** Yes.

**Commissioner J. Cruz:** If we do tally the five zone that you are asking the increment of four or whatever increment you have, is that going to total the volume of excavation of the original permit?

**Mr. H. Simpson:** It will be very close because this is the main area that has the excavated area, the rest of it where we're going to build our permanent drag strip so there's some in there but not large amounts. This is the main area and the reason for getting the permit for the whole area like that is one of the biggest areas, two big areas; EPA and Fish and Wildlife so when you do a whole area like that; there's very large studies that have to be done.

**Commissioner J. Cruz:** I understand that.

**Mr. H. Simpson:** So that's why we did the whole area all at once and get the clearance for all of those but then we're actually going to do the work a little bit a time.

**Commissioner J. Cruz:** So, the topography that you have here is no different from the topography that you got from the basic permit, correct?



**Mr. H. Simpson:** Right it's the same.

**Chairwoman P. Fejeran:** Do I have a copy of that?

**Mr. H. Simpson:** Yeah it should be in...

**Chairwoman P. Fejeran:** The last time you mentioned that you're permit will be expiring in March?

**Mr. H. Simpson:** May.

**Mr. S. Radonich:** We need to staff **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** So, the permit as we just discussed covers all of phase five-A?

**Mr. S. Radonich:** Yeah, what I believe is one hundred sixty-eight acres **\*\*inaudible\*\*** in that area but the area that we're working on present is four acres out of twenty-two which is the phase five-A.

**Chairwoman P. Fejeran:** Okay the total phase five-A and I now the last time you were here we said, please give the full picture, so phase five-A is one hundred sixty-eight acres and you already have the permit approved for that?

**Mr. H. Simpson:** Five-A area one is what this one is. Five-A is the one hundred and sixty-eight acres. Five-B is the balance of the two hundred fifty acres and we haven't gotten the EPA and Agriculture environmental clearing yet.

**Mr. S. Radonich:** We're working at this point on area on zone one.

**Chairwoman P. Fejeran:** And that's the four acres?

**Mr. S. Radonich:** That's the four acres.

#### **Multiple responses**

**Chairwoman P. Fejeran:** And so, what do these lines mean? Is this how you're going to grade it?

**S. Radonich:** That contours of the topographical map, so that's **\*\*inaudible\*\***.

**Mr. H. Simpson:** That's existing.

**Mr. S. Radonich:** That's before and then once its **\*\*inaudible\*\*** the topographical map will basically be flat around the drop offs.

**Mr. H. Simpson:** Once it's graded.

**Mr. S. Radonich:** Yeah, once it's graded.

**Chairwoman P. Fejeran:** In those four acres you're projecting one hundred twenty-five thousand, give or take cubic yards?

**Mr. S. Radonich:** Correct.

**Chairwoman P. Fejeran:** And the work you have done so far, the summary of the outcall that is strictly limited to this five-A zone one?

**Mr. S. Radonich:** Yeah.

**Chairwoman P. Fejeran:** So, in those four acres...

**Mr. S. Radonich:** **\*\*Inaudible\*\***.

**Commissioner J. Cruz:** So, in the topography of the sketch here, could we get a rough estimate of what is usable or levelled area? This is the four-acre lot?

**Mr. H. Simpson:** Yes.

**Commissioner J. Cruz:** This is the four-acre lot, is it possible that one third of it is topography issues?

**Mr. H. Simpson:** All of that...the whole area there is going to be cut down to five hundred ten...from that level to five hundred twenty.

**Chairwoman P. Fejeran:** And is it to meet a certain elevation based on already as built, so I'm assuming it's...

**Mr. S. Radonich:** Based on the masterplan that **\*\*inaudible\*\*** cuts down through the elevation.

**Mr. H. Simpson:** Yeah. There's going to be a road that cuts in along the **\*\*inaudible\*\*** lines from route fifteen to the back of the area. So, this area is being cut down now and this will be the next one and that'll complete the road down to the main road.

**Commissioner J. Cruz:** So, the tract is a different elevation from the finished grading of this...

**Mr. H. Simpson:** Yeah so this is our temporary tract. We wanted to get something the guys could use right away. So, it comes **\*\*inaudible\*\*** always knowing that we were going to build a new track down here and so now we're at that point. The new track is at a lower level because it has to be behind berms to keep the noise on the property and there were a lot of things we went through at the beginning of that but it's served it's served its purpose, it has been a good track for the guys, you know to have a place to go until we get the new one done.

**Chairwoman P. Fejeran:** So, phase five-A area one, is your short term planned years is one to three?

**Mr. H. Simpson:** Yes, area one, that whole area because that becomes our road frontage, that becomes where we want to put a gas station, that's where we want to move our other operations to.

**Commissioner J. Cruz:** That's a lot of excavation going on.

**Mr. H. Simpson:** It's a lot of work, yeah nut we're glad to be able to do it, you know, we've been waiting for fifteen years now.

**Chairwoman P. Fejeran:** I guess my question is, you don't have a lease you would need legislative approval for the lease and yet you're investing all of this time and energy as if you are going to get the lease.

**Mr. H. Simpson:** We have to have faith you know.

**Chairwoman P. Fejeran:** Nick, I have a question on the document you provided. Summary and Outhaul from GRP as of December tenth thank you for breaking it down for us. September, October, November and December, there's been outhauls? November twenty first, I thought we said, cease and desist, when did we send that letter, cease and desist?

**Mr. H. Simpson:** December six.

**Chairwoman P. Fejeran:** December six?

**Administrative Director J. Hattig, III:** December six.

**Mr. H. Simpson:** If you go back to the last page of the list of how things happened. First in May, we got our grading permit and we've been waiting for over a year and half for the clearance from EPA for that grading permit and so we never knew when it was going to come and finally it came in May and so it took a couple of months to get ready to move the equipment, clear the ground, and so they cleared the ground. There were loose rocks on top that's what the September and October rocks are, the two thousand and eight hundred, that's the loose rock on top and then in October. They started actually removing a little bit of the end of the **\*\*inaudible\*\*** by the very pointed part of that and then that's when they were working when we were told to stop.

**Mr. S. Radonich:** A part of that was to gain access **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** I see here it that grading activities were discontinued and then it **\*\*inaudible\*\*** on the ninth in response to the letter that you received on the sixth.

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** So, these eight thousand four hundred and four cubic yards that were hauled out in December happened within the first nine days?

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** Okay going back to that handout that you provided us, in total you have extracted fifteen thousand five hundred and twenty-four cubic yards?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** So, the total due is fifty percent of the proceeds of that that is sold to Smithbridge. Smithbridge pays two dollars a cubic yard?

**Mr. S. Radonich:** Yeah, we pay **\*\*inaudible\*\*** a cubic yard. This represents CLTC only.

**Chairwoman P. Fejeran:** So, we would expect, fifteen thousand five hundred and twenty-four dollars, but then I'm seeing that there's an amount withheld for engineering? Why is that coming out of the Land Trust part of the payment?

**Mr. H. Simpson:** Because the all the other...what we started first with these guys it was fifty cents a cubic yard then it went up to seventy-five cents and went to one dollar and was one dollar and fifty cents when we were working the last time in 2016 so we came back to them and a part of the problem has been caused for CHamoru Land Trust was the auditors oversight that you weren't doing things exactly right. That same auditor caused a lot of trouble for our engineer, Duenas Camacho & Associates. It's kind of funny, we go through and bear with me I'm going to run this and it'll become relevant, we go through a lot of different political ins and outs with this Commission, with the racetrack with people that have oversight and so for many, many years it went along just fine and then all of a sudden; hey, you're not doing it right so that auditor comes in and didn't allow our engineer to be paid properly and so our engineer said, hey I can't do this work anymore if I'm not paid and so we were up and down in the middle because that was during the time that the military still had it and so we're saying, wait we'll figure it out so when the **\*\*inaudible\*\*** decision came through; we went back to Smithbridge and said, until we can get this figured out with the auditor; would you pay for the engineering to get this through and they said yes. We'll start that so back in 2014 they started paying the engineering as soon as the **\*\*inaudible\*\*** decision. We filed our grading permit right away, they paid Duenas & Associates with the plan that we would take it out of our one dollar and fifty cents in the future and so as the future comes out the price goes up to two dollars and I said, our agreement is one dollar and fifty cents but you'll pay that. We'll make it two dollars and you can take your money back out of the two dollars because it's the same as like the Cramer's next door. They pay for the engineering, Perez Brothers, they pay for the engineering and so it's like CHamoru Land Trust and Guam Racing Federation together are paying for the engineering out of the two-dollar fee.

**Chairwoman P. Fejeran:** So, does that mean you're also paying twenty-five cents **\*\*inaudible\*\*** dollar, so you're splitting cost...

**Mr. H. Simpson:** Yes, of engineering.

**Chairwoman P. Fejeran:** The engineering that's done is so that you can get the grading permit **\*\*inaudible\*\*** you have all the plans.

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** I know the issue; I mean you can blame the auditor for the issues he caused but it was really the auditor forcing accountability on behalf of Guam Raceway and that accountability, I don't think should be footed by the Land Trust. This is your project this is not our project, you understand? This is your project; you assume all costs for it and we get our cut that's to be paid to us. This is the first that I've ever seen that you're withholding engineering fees from what was previously agreed upon, fifty percent of the sale of it.

**Mr. H. Simpson:** Okay for the first twenty years as we've been in our licenses about **\*\*inaudible\*\*** fifty-fifty but with that it never said who paid for the engineering. What had happened was, it was paid under the tax credits, we had basically been given nine million dollars' worth of tax credits to build a track. A million dollars was taken away right away. Eight million dollars was left. We used seven million dollars. Up to this point about four hundred thousand dollars of that or so was for engineering so all of the engineering cost were paid on tax credit over that twenty-year period except at the very end, the auditor said, you're not doing this right. It was never proven that it wasn't right. For twenty years it was not okay this way but because it became a problem the engineer said, look we can't afford to fight the government on this. We need to wait for another auditor. We need to...actually, what we're saying is when we get the new lease and we get the new funding we're going to make sure that there

aren't any hitches in the laws that allows an auditor to come back to say, you're not doing this right. This was the first project that was ever funded by tax credits and so we sat down with the attorneys for GEDA, we sat down with GEDA and we made up the rules as we went along and so there were a few things in there that were open to interpretation and so, one auditor in the beginning said, a you're doing everything fine the next elected auditor says, you're not doing everything fine and left it for us to argue, you know.

**Chairwoman P. Fejeran:** It was an audit finding on the CLTC's part, right?

**Mr. H. Simpson:** It was saying, hey CLTC, you're not accounting for this material properly.

**Chairwoman P. Fejeran:** Right.

**Mr. H. Simpson:** The auditor before that thought you were doing a great job.

**Chairwoman P. Fejeran:** Did we have audits before that?

**Mr. H. Simpson:** Yeah, you did.

**Chairwoman P. Fejeran:** I didn't know we had audits before that. I know as soon as we started getting audits under Director Borja. We made sure we were getting these audits done that from the beginning that was always a finding. I mean again, seven million dollars in tax credits have been used up for your project and now that you're at the tail end of that, you're passing the **\*\*inaudible\*\*** the cost to the Commission, that's what this is on that page and then on the next page where you talk about the grading value estimate, you're also charging us for the permit fee?

**Mr. S. Radonich:** No, that is ours. **\*\*Inaudible\*\*** engineering for the actual masterplan drawing.

**Mr. H. Simpson:** The reasoning for that is to be competitive with what others are charging other land owners in the area that are charging. They're charging the two dollars a yard. They're selling their excess graded material for two dollars a yard but they're paying the fees so it's the same as we're paying the fees. The land trust and the racing federation are paying the fees. You don't like that?

**Chairwoman P. Fejeran:** No, I don't like that at all.

**Mr. H. Simpson:** I think that can be done. I think they would **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Well for every dollar we get you also get, right?

**Mr. H. Simpson:** Yes.

**Mr. S. Radonich:** Henry will get...Guam Racing Federation will get **\*\*inaudible\*\*** but the engineering fee is **\*\*inaudible\*\***.

**Mr. H. Simpson:** The idea was, the engineering fee is going to run for that whole area between thirty-five and forty-five thousand dollars depending upon what the survey is and we would pay that out. Two dollars a cubic yard. Fifty cents would go to paying the engineering and then a dollar fifty would be split seventy-five cents each that was the plan because we were already doing a dollar fifty so we added fifty to cover the engineering but then after the engineering is paid then it goes dollar to dollar into the future.

**Mr. S. Radonich:** To this point the engineering has been, you know we've covered the cost and paid for the engineering and with the exception of the **\*\*inaudible\*\*** because I haven't received and invoice for the **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** As you provided, there's the MOU between both parties. I believe those costs should be between the two parties and the Land Trust maintains their portion without having to pay for those costs.

**Mr. H. Simpson:** We can do that.

**Chairwoman P. Fejeran:** And so how were you planning on reporting these activities to the Commission?

**Mr. H. Simpson:** With this monthly report.

**Chairwoman P. Fejeran:** A monthly report? Would that include monthly payment?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** I mean you started in September, have you reported monthly and have you paid that fee?

**Mr. H. Simpson:** Haven't paid.

**Mr. S. Radonich:** Like I said, we just got started at the end of November so the preparation, we've been in preparation but those are reported now but some of the amounts **\*\*inaudible\*\*** November. We started probably the last week of November so **\*\*inaudible\*\*** four thousand dollars out of the last week of November, nine thousand dollars out of this week, December.

**Chairwoman P. Fejeran:** **\*\*inaudible\*\*** this check would be complete then? Because on the agreement **\*\*inaudible\*\***.

**Mr. H. Simpson:** We'll send you a check tomorrow.

#### **Multiple conversations**

**Chairwoman P. Fejeran:** Well okay, I guess my question is, in the month of September, you pulled out two thousand one hundred eighty-eight dollars **\*\*inaudible\*\*** was the report made to the Commission, was a check cut?

**Mr. H. Simpson:** No the reason for that, if you look at the timeline in the back, those were loose boulders on top of the property getting it ready for the topo so even I didn't know that that much material was moved so I have got that back from them because I'm thinking nothing is going to happen until after we do the topo but there were loose boulders so this is the amount of loose boulders on top.

**Mr. S. Radonich:** **\*\*inaudible\*\*** loose boulders and **\*\*inaudible\*\*** rock and it wasn't as clear to do a proper topo and we cleared the jungle off and then knocked the tops off the rocks and any loose rocks took them aside. They were reported, every **\*\*inaudible\*\*** back out, **\*\*inaudible\*\*** are reports go back to September.

**Chairwoman P. Fejeran:** Okay, and your internal reports are done monthly?

**Mr. S. Radonich:** They are done monthly, for accounting purposes. We actually because it's debt everything is put forward in an accounting form.

**Chairwoman P. Fejeran:** Okay, so it would be simple to forward that report and then check for payment at the end of the month?

**Mr. S. Radonich:** Very simple, yeah and what we would do is about the tenth of the month...like if it's December, it would be due by the tenth of January.

**Chairwoman P. Fejeran:** I see.

**Commissioner J. Cruz:** What role does EPA have during your excavation? What kind of inspection do they do?

**Mr. S. Radonich:** Inspection for?

**Commissioner J. Cruz:** When you do your grading, does EPA do a site visit or...

**Mr. S. Radonich:** They can turn up at any stage, **\*\*inaudible\*\*** you know if we have any storms or wind or any elements change, those are all inspected.

**Mr. H. Simpson:** This clearance took about a year and half to get so it's very thorough and...

**Chairwoman P. Fejeran:** **\*\*inaudible\*\***

**Mr. H. Simpson:** Yup, very regulated.

**Chairwoman P. Fejeran:** I know that when we discussed this maybe in November or October, we asked has the agency conduct a site visit or was it conducted.

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** Can someone speak to that?

**Administrative Director J. Hattig, III:** Yes, Joey and Mel and Pierce conducted a site visit. Joey...

**Chairwoman P. Fejeran:** Can you share the results of the site visit?

**Program Coordinator III Joey Cruz, Jr.:** Joey Cruz. On Tuesday, December ten, I believe it was at twelve pm, Melvin, Pierce and myself, we conducted a site inspection on the Guam Raceway and Melvin will bring up some pictures that were taken. On the day of our inspection, there were no heavy equipment present or any excavation or clearing and grading activity conducted; although, there was evidence that there was an excavation of a certain land point which was I think what he had mentioned.

**Mr. H. Simpson:** Yeah, for September October.

**Program Coordinator III J. Cruz, Jr.:** So that's where the area where there were **\*\*inaudible\*\***.

**Mr. H. Simpson:** That's the road across back to...

**Program Coordinator III J. Cruz, Jr.:** Adjacent to Route fifteen.

**Chairwoman P. Fejeran:** And that's the track right there?

**Mr. H. Simpson:** Those mounts are not material; you won't believe what that is. That's chipped up wood that we use to put on the track to keep the dust down. It turns into dirt later on and it's really an erasing surface, see it's chipped up wood.

**Chairwoman P. Fejeran:** Oh, I see.

**Commissioner J. Cruz:** Can you just relate the picture with your zoning?

**Mr. H. Simpson:** Yeah, that is... those pictures aren't on there. That over at the off-road track. We're going to spread all that material out and it will go on the upper track. One of the complaints is that our motorcycle riders and kids and stuff like that that the ground is so hard it's coral it's not like red dirt and this is has really helped to make it a lot nicer track for the kids to use.

**Commissioner J. Cruz:** And safer.

**Mr. H. Simpson:** Safer a lot safer. That is not in the area. That is looking down from the area that is being filled so really even...it's actually off of the edge of this picture.

**Chairwoman P. Fejeran:** And that's **\*\*inaudible\*\*** activity?

**Mr. H. Simpson:** No, that is the road from the Cramer's side going through to our side.

**Commissioner J. Cruz:** So, your side is the one on the right?

**Mr. H. Simpson:** Yes.

**Program Coordinator III J. Cruz, Jr.:** It's where it's adjacent to Route fifteen.

**Mr. H. Simpson:** Yeah, we're on the other side.

**Chairwoman P. Fejeran:** You're standing on raceway property looking...?

**Mr. H. Simpson:** No, you're standing on the Cramer's property, the lot next door.

**Program Coordinator III J. Cruz, Jr.:** That's the raceway property, the Cramer's are on the right side facing out.

**Mr. H. Simpson:** So, to the left side is this point here.

**Chairwoman P. Fejeran:** That's kind off where you're standing?

**Mr. H. Simpson:** Yeah.

**Program Coordinator III J. Cruz, Jr.:** The area that we found where the excavation activity that had occurred which they had mentioned, that's the area.

**Chairwoman P. Fejeran:** So, whose property is that tall cliff?

**Program Coordinator III J. Cruz:** To the right is the Cramer's.

**Chairwoman P. Fejeran:** That's the private property?

**Mr. S. Radonich:** Private property.

**Mr. H. Simpson:** Part of it is ours. Part of it again is not on this picture but a part of that is on the other side of that wall is Perez Brothers property and it's being...

**Program Coordinator III J. Cruz, Jr.:** So, on the right side of the cliff is private property.

**Chairwoman P. Fejeran:** So, on the right is private and on the left that's racetrack.

**Program Coordinator III J. Cruz, Jr.:** The entrance and towards the left is government property.

**Chairwoman P. Fejeran:** And then right beyond that is Cramer? Private Property?

**Program Coordinator J. Cruz, Jr.:** On this side, yeah.

**Chairwoman P. Fejeran:** So, all of the activity you are doing is occurring within your permitted zone?

**Mr. H. Simpson:** Yes.

**Program Coordinator III J. Cruz, Jr.:** Our other concern of how the inspection was conducted was on the permit is says, replacement of excavated material, no imported fill. We took pictures of the asphalt that is being used to refill whatever was excavated so that was another concern.

**Mr. H. Simpson:** Yeah, we're working on getting that **\*\*inaudible\*\*** of the no imported fill because remember there were two permits before. One was for filling for Hawaiian Rock and one was for grading for Smithbridge so when we got the final grading for Smithbridge it incorporated the filling for Hawaiian Rock but it didn't take out the words "no imported fill" so it's always been understood that the over excavation under the drag strip was to be filled with imported fill so we're going to get that changed; that will be changed on the permit.

**Commissioner J. Cruz:** Who requires the no...?

**Mr. H. Simpson:** It was a Public Works thing.

**Chairwoman P. Fejeran:** But it's on your permit?

**Program Coordinator III J. Cruz, Jr.:** Also, on one of the permits, it was also noted from the Department of Land Management but that permit has expired already.

**Mr. H. Simpson:** The fill permit for Hawaiian Rock.

**Chairwoman P. Fejeran:** No imported fill?

**Mr. H. Simpson:** Yeah, because it's incorporated under their fill, under their permit but we're going to get that changed so the imported fill will work on that now.

**Mr. S. Radonich:** **\*\*inaudible\*\*** it is good material even our **\*\*inaudible\*\*** it's good material.

**Commissioner J. Cruz:** Which agency will give you the clearance to change the...

**Mr. H. Simpson:** Public Works based upon our engineers looking at it, writing a letter and then they'll change the...

**Commissioner J. Cruz:** The quality of the imported?

**Mr. H. Simpson:** Yeah.

**Mr. S. Radonich:** Good quality material. You'd be happy to have it on your property or your ranch or anywhere outside. It's good material.

**Chairwoman P. Fejeran:** So, it's onsite but it hasn't been used as backfill?

**Program Coordinator III J. Cruz, Jr.:** There was some use for backfill, we took a picture of it.

**Mr. H. Simpson:** That's the asphalt, right?

**Program Coordinator III J. Cruz, Jr.:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Do you need a permit anytime you import material?

**Mr. H. Simpson:** No, we have the backfill permit already.

**Chairwoman P. Fejeran:** But not to include imported material.

**Mr. H. Simpson:** That was a technicality before...

**Chairwoman P. Fejeran:** Mr. Simpson, it's like you're...

**Mr. H. Simpson:** On the permit we were always using through Hawaiian Rock, it was imported material no exported material.

**Chairwoman P. Fejeran:** It's allowed on that permit?

**Mr. H. Simpson:** But once they got molded together, that no imported material stays on **\*\*inaudible\*\*** so we got to get it changed.

**Chairwoman P. Fejeran:** I mean, I understand what you want to happen, but I'm concerned about is what's on paper and what's been done.

**Mr. H. Simpson:** Yeah, we're going to get it fixed before there's any more imported material.

**Program Coordinator III J. Cruz, Jr.:** So that's the imported material.

**Chairwoman P. Fejeran:** The mounds that we're looking at?

**Program Coordinator III J. Cruz, Jr.:** Yeah, even right below is also filled with asphalt.

**Engineer Technician II Melvin Javier:** The one that's already leveled is the one that's backfilled, the top part is mounds that were dumped **\*\*inaudible\*\***.

**Commissioner J. Cruz:** Staging?

**Engineer Technician II M. Javier:** Yeah.

**Mr. H. Simpson:** So, they're going to spread that out.

**Mr. S. Radonich:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** This overgrown area was what was recently **\*\*inaudible\*\***.

**Multiple responses**

**Program Coordinator III J. Cruz, Jr.:** In our previous site inspection, we have pictures.

**Chairwoman P. Fejeran:** So, it was done prior to this new permit?

**Program Coordinator III J. Cruz, Jr.:** I'm not too sure.

**Mr. H. Simpson:** It was probably under the old Hawaiian Rock permit, which allowed imported material.

**Commissioner J. Cruz:** How much of an area does it fill?

**Mr. H. Simpson:** Probably about...

**Mr. S. Radonich:** **\*\*inaudible\*\***

**Mr. H. Simpson:** Yeah, so we're trying to get it filled now so can move from the temporary to the permanent **\*\*inaudible\*\***. So, this says, this is backfilling and grading, this section here on the old permit, on the permit that we gave you last time; this is the one that is no longer viable, this is one blended into theirs but this is the area that's been backfilled.

**Chairwoman P. Fejeran:** So that occurred previous to this current permit activity?

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** Yes.

**Mr. H. Simpson:** All the over excavation and the backfilling occurred during the military time, so we didn't know where we were going or what we were doing and it was all basically okayed by Land Management and Chamoru Land Trust and as nobody knew what was going to happen, you know, it was what can do with what we had at the time.

**Mr. S. Radonich:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** You must have a lot of faith to put so much work and effort into this when really there's nothing that we've got solid and I understand that that's why you are here today; requesting us to approve your activities and give our blessing to a proposed lease, is that right?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** Okay. A proposed lease was provided to us by the department, **\*\*inaudible\*\*** and your intent is, if the Commission were to approve, I mean give the lease our blessing, you would take this to the Legislature and I assume we would make a motion and a resolution in support of and it would be like a package document.

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** Is Guam Raceway a for profit corporation?

**Mr. H. Simpson:** It's a nonprofit, it's none profit, it kept it's none profit status in place for the last twenty-four years. It was started just to build this facility.



**Chairwoman P. Fejeran:** Okay. So, Commission, like I said, there's two requests by Guam Raceway Federation; the first is to allow Smithbridge to continue work on phase five-A area one.

**Mr. S. Radonich:** Area one, zone one.

**Chairwoman P. Fejeran:** Area one, zone one

**Commissioner J. Cruz:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** We would be lifting our moratorium on excavation.

**Legal Counsel N. Toft:** On that particular portion.

**Chairwoman P. Fejeran:** On that particular portion and based on your estimates here. You are looking at approximately a hundred twenty-five thousand dollars revenue given to the CLTC within the next five months?

**Mr. S. Radonich:** Yes.

**Commissioner J. Cruz:** Could we get a scheme if what you do is an increment lift on this five-A, like if we were to do a **\*\*inaudible\*\*** parcel of the approval? Could we do a scheme of this whole area where the next time you come in and add we can still have a tracking of which area we did approve, which area hasn't been approved?

**Mr. H. Simpson:** Yeah, this is the area lined with green that we're asking for approval now.

**Commissioner J. Cruz:** Yeah, but could we label it?

**Mr. H. Simpson:** It's labeled but our printer didn't do it.

**Chairwoman P. Fejeran:** Oh, okay.

**Mr. H. Simpson:** When you see up here, something zone one thru three, the printer cut it off, so that is zone one. So, the next time we come in it will be zone two.

**Mr. S. Radonich:** **\*\*inaudible\*\***

**Commissioner J. Cruz:** This information will be perfect to have that here so we could...because we already have the data of how much volume you guys are going to be getting, how much...

**Mr. H. Simpson:** Is it okay if we could just write it in here?

**Chairwoman P. Fejeran:** Yeah, my understanding is their permit covers all of five-A blankets it... So, your blanket permit right now, it expires...

**Mr. S. Radonich:** In April.

**Chairwoman P. Fejeran:** In April? So, you would have to re-apply?

**Mr. S. Radonich:** We really have to stop now we have papers to stop in January. We **\*\*inaudible\*\*** forward to have that permit renewed or **\*\*inaudible\*\***.

**Commissioner J. Cruz:** Would you finish this phase before your permit expires?

**Mr. S. Radonich:** We would be very close, like five months. So, if we continue now in December, we would have December, January, February March.

**Commissioner J. Cruz:** We would like to see a different permit coming and extracting or removing this portion that you already got.

**Mr. H. Simpson:** What you would get is a different topper a new topper and a new projection of exactly how much time. It would like this one in five months we'd do that on the second one also.

**Mr. S. Radonich:** Once the second topo is done, the elevations (inaudible) the engineer, the exact volume, the first topo and the second topo, can use machine and it would tell you the exact volume so any shortfall or the if the estimation, because we're estimating taking it out on truckloads and whatever the truckloads are, we can give you the truckload information, we could give you the volumes that we believe that are in the truckload every time but they may vary, they could be high they could be low; to date, hauling out of the Cramer's property, we are very close.

**Commissioner J. Cruz:** On your property map, any of this area mean a portion of like you have a different parcel for the race track itself and a different partial for another event?

**Mr. H. Simpson:** It's the whole thing.

**Mr. S. Radonich:** Once zone one, two and three are completed, Henry can move forward with the gas station and the other...

**Mr. H. Simpson:** Our next step is the commercial area in the front. We want to get that done and then we want to get the drag strip built on that area because that's four and five is the temporary drag strip to be taken out.

**Mr. S. Radonich:** Those have put in **\*\*inaudible\*\*** for CHamoru Land Trust.

**Chairwoman P. Fejeran:** So just to reiterate, when you get completed with zone one, you would come back for approval for zone two, zone three and zone four...

**Mr. H. Simpson:** Yes.

**Mr. S. Radonich:** Hopefully with the topographical map, it gives CHamoru Land Trust some **\*\*inaudible\*\*** an accurate accountability.

**Chairwoman P. Fejeran:** Monthly reports would also be required, right? You would be reporting monthly, paying monthly; if this is approved?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** Does the commission want to further discuss their request? So the request that I'd ask us to is to determine right now is to allow Smithbridge to continue work with Guam Racing Federation for phase five-A, area one, zone one, if provided a topographical map of that zone **\*\*inaudible\*\*** they have estimated approximately a hundred and twenty-five thousand dollars of revenue for that zone one, activities are allowed to continue, the payments to the Land Trust will be one dollar per cubic yard and monthly reports along with a check for payments for those amounts will be provided by the tenth of the month following / covering the previous.

Further discussion? Do you guys want to...?

**Commissioner J. Cruz:** Can we synchronize the date, instead of the tenth because we always have our meeting on the third Thursday of the month?

**Chairwoman P. Fejeran:** Okay, sure, so what will the change be?

**Commissioner J. Cruz:** No later than the third meeting of the month.

**Chairwoman P. Fejeran:** For the previous month? The tenth is stricter, the tenth of the month.

**Commissioner A. Bordallo:** That's when they pay?

**Chairwoman P. Fejeran:** Yeah, that's when they pay. So, by the time that we have our meeting, we'll know that the previous month has been reported and paid. Yeah? I know that the Legislature had some issues with the excavation and selling of the rock, that's why they put it into the bill that was urgently supposed to get them a lease. We said no excavated materials so we would essentially by approving this. I just want the Commission to understand, if we were to approve this, we're essentially allowing that activity to take place for the future continued activity that the Guam Racing Federation would like to do which they don't have a lease for yet.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Yeah, they're on a month to month.

**Commissioner A. Bordallo:** Their five years is **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Their five years is up, they're on a month to month and they have a right of entry or what's the current?

**Legal Counsel N. Toft:** It's a continuation of the previous lease on a month to month basis.

**Chairwoman P. Fejeran:** Okay.

**Chairwoman P. Fejeran:** I think it was last year.

**Legal Counsel N. Toft:** I don't know the exact **\*\*inaudible\*\***.

**Commissioner J. Cruz:** Is there a timeline **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** It's month to month.

**Commissioner J. Cruz:** I mean is it go for two years? Is it good for one year?

**Administrative Director J. Hattig, III:** Was it not to exceed six months?

**Legal Counsel N. Toft:** So, the **\*\*inaudible\*\*** to extend that right of entry for six months. The lease itself is on a month to month.

**Commissioner J. Cruz:** So, when does the right of entry expire?

**Chairwoman P. Fejeran:** I think its June or July. It's June.

**Administrative Director J. Hattig, III:** Because June is the end of the term that we were supposed to have them sign the lease, by June so we approved the **\*\*inaudible\*\*** month to month up to the month of June.

**Chairwoman P. Fejeran:** So, would we need a new right of entry if we're going to continue with the month to month?

**Legal Counsel N. Toft:** I would recommend it.

**Administrative Director J. Hattig, III:** Yeah.

**Legal Counsel N. Toft:** The goal is to get a long-term lease, either like if it's going to get approved, we need to move it to the Legislature one way or the other.

**Commissioner J. Cruz:** I guess, Henry has a good faith.

**Chairwoman P. Fejeran:** Well I think our approval of area one, zone one and then...

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Okay. On this very specific part of the property.

**Commissioner A. Bordallo:** Yeah.

**Commissioner J. Cruz:** So, we're lifting the moratorium only strictly on zone one?

**Chairwoman P. Fejeran:** Phase five-A, area one, zone one.

**Commissioner A. Bordallo:** We need a motion.

**Chairwoman P. Fejeran:** I think we would need a motion but maybe if we can address first their right of entry which expires this month.

**Commissioner J. Cruz:** The right of entry was issued for six months, the one that expired?

**Chairwoman P. Fejeran:** Yes, I think so.

**Commissioner J. Cruz:** And that's from July to December?

**Commissioner A. Bordallo:** June to December **\*\*inaudible\*\*** so we're renewing it for January to June.

**Commissioner J. Cruz:** So, we're renewing if for January **\*\*inaudible\*\*** and that's for the right of entry?

**Commissioner A. Bordallo:** Yes. So, I would like to make a motion to allow Guam Racing Federation a right of entry starting from January first to June thirtieth on Lot No. 7161-R1, Route 15, Yigo.

**Chairwoman P. Fejeran:** Motion's been made.

**Commissioner A. Santos:** I second it.

**Chairwoman P. Fejeran:** Seconded by Tan Amanda. Further discussion? My only question is, I just want to be sure that there's no lapse on the right of entry period because if we start January one does that mean the right of entry expires December thirty-one? Do we have their lease file? It would be in their lease.

**Administrative Director J. Hattig, III:** Just the motion, do we have like another lease...

**Legal Counsel N. Toft:** Amended from today until **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay, from today until **\*\*inaudible\*\***. I don't know that if it is though because I remember that there's something expired in the middle of June.

**Administrative Director J. Hattig, III:** Right because we had our meeting early in June so that covered the date all the way until December. So, from today, will you be able to vote?

**Chairwoman P. Fejeran:** Okay the motion has been amended to the start date being today, December nineteenth. December nineteen 2019 to June thirtieth 2020. Okay, further discussion? Do we need a second for an amended motion?

**Legal Counsel N. Toft:** I would just to be safe.

**Commissioner J. Cruz:** I second it.

**Chairwoman P. Fejeran:** Okay, seconded. Final discussion? All those in favor?

**All Commissioners:** Aye.

**Chairwoman P. Fejeran:** Okay, ayes have it. Motion passes. Okay, we have another motion.

**Commissioner J. Cruz:** I would like to make a motion to lift the moratorium for Zone one, Phase five-A.

**Chairwoman P. Fejeran:** Motion made.

**Commissioner A. Santos:** Second it.

**Chairwoman P. Fejeran:** For clarification, the moratorium is the moratorium placed on Guam Raceway since 2016 **\*\*inaudible\*\*** excavation activities, grading and excavation activities. Is that right?

**Commissioner J. Cruz:** Yes.

**Chairwoman P. Fejeran:** And you said, Phase five-A, zone one, that's a part of area one, right?

**Commissioner J. Cruz:** Area one, yes.

**Chairwoman P. Fejeran:** Five-A, area one, zone one, which can be described as approximately four acres, right, of which we do have a topographical map?

**Commissioner J. Cruz:** Yes.

**Chairwoman P. Fejeran:** Okay, the motion has been made and seconded. Certain clarifications have been made so if I could restate the motion with those clarifications. The motion is to lift the moratorium for clearing, grading and excavation of materials for Phase Five-A, area one, zone one of approximately four acres based on the topographical map that was received today and also this map where area one is beside. Further discussion?

**Commissioner J. Cruz:** Will we be getting the sketch identifying these four zones?

**Mr. H. Simpson:** Yes.

**Chairwoman P. Fejeran:** So, a more clearly identified map? Okay seconded, further discussion? None. All those in favor?

**All Commissioners:** Aye.

**Chairwoman P. Fejeran:** Okay, ayes have it. Motion passes. So now that we have lifted the moratorium, now that the moratorium is lifted; does the Commission want to grant specific approval for those activities in that one zone with the conditions that we discussed already that might be helpful to have it in a motion and set that way?

**Legal Counsel N. Toft:** I think the lifting of the moratorium is **\*\*inaudible\*\***.

**Commissioner J. Cruz:** We've identified the area.

**Legal Counsel N. Toft:** Right.

**Chairwoman P. Fejeran:** Okay. I know we did discuss the various conditions, right; that the conclusion of the activity, you provide topographical map of that before and after.

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** Okay so I am just going to write here. I want it documented and make sure that it's clear because I don't want there to be any assumptions moving forward of what's expected, okay? So now that the moratorium is lifted for this very specific zone upon conclusion of the activities,

we need a topo map and then also the monthly reports and payments of royalties by the tenth of the following month. Were there any other conditions for their activities there, I mean obviously in accordance with the permit...?

**Commissioner J. Cruz:** The new permit that they will be getting, will we be getting a view of that **\*\*inaudible\*\***?

**Mr. S. Radonich:** It's not all that **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** So, I guess since we are really focused on zone one, any other activities or plans should be presented to the Commission and again, we would have to review it and provide our approval prior to any additional work.

**Mr. H. Simpson:** The only thing I foresee is getting that change so that Hawaiian Rock can continue to fill and so we can build our drag strip there, so we'll come back for that change for you.

**Chairwoman P. Fejeran:** Great. So, anything outside of zone one that we haven't discussed, you'll come back?

**Mr. H. Simpson:** Yeah.

**Chairwoman P. Fejeran:** So, then I guess the next is the lease. Has everybody had a chance to review the lease? No? I have the one that we had last time.

**Administrative Director J. Hattig, III:** This is the one that was since approved **\*\*inaudible\*\*** we can go through this one **\*\*inaudible\*\*** in case you have any question.

**Program Coordinator III J. Cruz, Jr.:** There shouldn't be any changes.

**Chairwoman P. Fejeran:** I am not sure if you, Mr. Simpson, is there a time limit that you're, kind of held to in terms of receiving Land Trust approval on this draft lease? My understanding is you know, you will have to take it to the Legislature.

**Mr. H. Simpson:** Yeah, we want to get it to the Legislature as soon as we can.

**Chairwoman P. Fejeran:** Okay. But you're already continuing the activities so it's almost...

**Mr. H. Simpson:** We can't go in for any long-term financing. We can't make any long-term agreements. We can't do really anything without the lease so we really want move forward with it.

**Legal Counsel N. Toft:** And if they're in the **\*\*inaudible\*\*** any sort of subleasing, it will be better to have the lease, the official lease in place before that happens.

**Mr. H. Simpson:** And I will be coming back to you with the subleases.

**Chairwoman P. Fejeran:** You know I know that we were presented with another draft lease for Global Recycling where the specific section in the law that allows us to lease to them is cited.

**Legal Counsel N. Toft:** Yes.

**Chairwoman P. Fejeran:** I don't see that here.

**Legal Counsel N. Toft:** This would be entirely a different thing because this would be a creation by the Legislature. It's not subject to the same **\*\*inaudible\*\*** I don't want to say commercial license because that's exactly what Global Recycling is either. I guess the **\*\*inaudible\*\*** license would be any legislative **\*\*inaudible\*\*** or depending on how they do it. If they try to do it the same as before where they kick it back to us for final draft and approval at least they would have a bill that would have specific authority for us to enter into that.

**Chairwoman P. Fejeran:** Okay.

**Legal Counsel N. Toft:** So, either one or two things can happen. Either the Legislature does its own lease in which case you know this gets modified however the Legislature does it and they draft it; they pass it and if doesn't come back to us all. Or they do a bill, similar to the previous one, authorizes up to an X amount of years and then we use that bill as the basis for the lease; so it doesn't need to have it on to that at this time because it would be pursuant to a different authority if it does come back to us.

**Chairwoman P. Fejeran:** Is the Legislature able to create a bill creates and approves a lease for our Land Trust properties?

**Legal Counsel N. Toft:** Yes.

**Chairwoman P. Fejeran:** A lease?

**Legal Counsel N. Toft:** Yes.

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** Where's the precedence for that?

**Administrative Director J. Hattig, III:** They attempted to do it with the Raceway, fifteen-year lease.

#### **Multiple responses**

**Administrative Director J. Hattig, III:** The previous raceway bill was produced by the Legislature it wasn't produced by the Commission.

**Legal Counsel N. Toft:** Correct.

**Chairwoman P. Fejeran:** The lease itself?

**Legal Counsel N. Toft:** Yes.

**Chairwoman P. Fejeran:** So, the original lease was a lease that the Legislature created or the Legislature created the bill that set certain terms that they handed to the Land Trust to create a lease based on those terms.

**Legal Counsel N. Toft:** It's been a while since I've seen that document. I have the number, if **\*\*inaudible\*\*** to be able to figure it out. It's document no. 503740 if you're able to pull that number.

**Commissioner J. Cruz:** Isn't that document the administrative transfer? The document that you just read is right here and it says, administrative transfer.

**Commissioner A. Bordallo:** You know since we have already given you the authorization, we would like to work on the lease to make a decision.

**Chairwoman P. Fejeran:** You would like to table this lease for further review?

**Commissioner A. Bordallo:** Yes.

**Chairwoman P. Fejeran:** I think I would like to find out more if the Legislature is able to create and sign leases for our properties.

**Legal Counsel N. Toft:** Okay.

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\*** Legislature. I'll check into the precedence.

**Chairwoman P. Fejeran:** Well I don't know if the Legislature can force the Commission to sign a lease. I don't know, right? Maybe we just need some clarification and that way we understand what approval needs...

**Commissioner J. Cruz:** I think my understanding is that they did a transfer and gave CHamoru Land Trust to manage it.

**Chairwoman P. Fejeran:** Oh, I see, so it wasn't land trust property to begin with whereas now, it is our property so it's kind of a different situation.

**Legal Counsel N. Toft:** Yeah, so I think **\*\*inaudible\*\*** they will probably just kick it back to us **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Like the last one?

**Legal Counsel N. Toft:** Yeah, like the last one so in **\*\*inaudible\*\*** cite the bill.

**Chairwoman P. Fejeran:** Which allows us to set certain terms that are outside of **\*\*inaudible\*\*** rules and regs.

**Legal Counsel N. Toft:** Our regular stuff, yes.

**Chairwoman P. Fejeran:** Okay. I'm in agreement if we could table the review and approval of the lease for our next meeting.

**Commissioner Bordallo:** **\*\*inaudible\*\*** do you have the five-year lease?

**Mr. H. Simpson:** We never had a five-year lease. We had a twenty-year license while they were working on doing the law. I went to all the meetings and I explained to them that we like the CHamoru Land Trust is a creation of the Legislature. We were also just a creation of the Legislature and so anything that didn't fit, the commercial leases that CHamoru Land Trust set up needed to be approved by the Legislature. That's what they told us so we always had to go back to the Legislature to have any final approval on a lease so we're hoping that, you know we've negotiated terms to this as best as possible with CHamoru Land Trust and then we'd take it to the Legislature with your blessing and that they'd approve it so that we can move on with building the track, that's our hope.

**Commissioner J. Cruz:** **\*\*inaudible\*\*** qualify to go through GEDA for processing?

**Legal Counsel N. Toft:** No, because they're seeking a longer-term lease.

**Chairwoman P. Fejeran:** And because it was not also identified as a commercial property, right?

**Legal Counsel N. Toft:** Correct and that also benefits the Trust because if it were identified as a commercial property that would vastly shrink the amount of other commercial properties available for lease.

**Chairwoman P. Fejeran:** Okay. So, we tabled the lease for review and approval. If we could get that placed on our January meeting and also for more clarifications on the legislative process.

**Mr. H. Simpson:** You'll have your first check or your second check by then.

**Mr. S. Radonich:** **\*\*inaudible\*\*** check would be the difference made out to Treasurer of Guam with CHamoru Land Trust **\*\*inaudible\*\*** account number?

**Chairwoman P. Fejeran:** Oh, how do we do this?

**Program Coordinator III J. Cruz, Jr.:** To the Treasurer of Guam, just the way you wrote that check.

**Mr. H. Simpson:** Same account number?

**Program Coordinator III J. Cruz, Jr.:** Yes.

**Mr. H. Simpson:** The same one we pay our rent with, so it'll go to your account?

**Chairwoman P. Fejeran:** Does that go into the operations or...

**Program Coordinator III J. Cruz, Jr.:** The operations, the same account.

**Chairwoman P. Fejeran:** Okay.

**Mr. H. Simpson:** Let me ask, does the Land Trust get to spend this money because when we first started, they wouldn't allow the Land Trust to spend the money. It went into the general fund and then Land Trust had to take the money out of the General Fund, had to fight for it to get back to you again.

**Chairwoman P. Fejeran:** They took all our money.

**Mr. H. Simpson:** Even this money?

**Program Coordinator III J. Cruz, Jr.:** Anything we get.

**Mr. H. Simpson:** We always hoped that this money was going towards you know actually seeing roads built and things like that happen.

**Chairwoman P. Fejeran:** Yeah, I mean, we're keeping a very close eye on our funds to make that money deposited is actually deposited.

**Mr. H. Simpson:** Okay.

**Chairwoman P. Fejeran:** Okay. Thank you, gentlemen. Merry Christmas.

**All:** Merry Christmas.

**Chairwoman P. Fejeran:** I'd like to call a ten-minute recess.

## **RECESS**

**Chairwoman P. Fejeran:** I'd like to call this Commission meeting back to order. The time is 4:09 p.m.

**b. Global Recycling**

**Chairwoman P. Fejeran:** I'd like to table the next item on the agenda, Global Recycling. Is the Commission okay with that?

**Commissioner A. Bordallo:** I'm fine.

**c. Hal's Angels/Guam Rugby Club**

**Chairwoman P. Fejeran:** Okay, the next item on the agenda is the Hal's Angels and the Guam Rugby Club issue. I know the rugby folks have been sitting waiting patiently back there, thank you. We don't have any representatives from Hal's Angels here, so I would **\*\*inaudible\*\*** but I would like to afford them the opportunity to speak since I know Mr. Walsh is here and at are last meeting and your both here now, so, please go ahead.

**Ms. Genevieve Rapadas:** Thank you, Madam Commissioner, I appreciate you giving us the opportunity and good afternoon, Commission and staff. My name is Genevieve Rapadas, I'm the Legal Counsel for the Guam Rugby Club and Ross Morrison who's one of the board members of the club. We were both present a few months ago for I guess an update to the board on the status of this matter. I did want to put on the record, Hal's Angels' attorney and I have been in communication; we've been trying to work on a proposal that would work for both parties. I did inform Ms. Terlaje at her request that we would be present today or we might be present. We were trying to scramble to get a representative her so she **\*\*inaudible\*\*** that we'd be present today. At this time, I'm not sure how much the Commission has been updated on the status of the matter; about two months ago, we met with the Director, Legal Counsel and a few members of the staff to see if we could come up with a mutual solution to this issue. I think that the Commission has recognize that both our organizations are providing a public benefit with the use of the land and you know the rugby club has done its best to look at what its options are, work with the commission to see if there's an alternative access way that could be I guess created and is also accessing the cost in time that will come out of it. One of the main concerns for the Guam Rugby Club is that it does not have access to the fields. It hasn't had access for the last few months. The fields are in disrepair and a couple of the schools on island use those fields for their home fields so they haven't been able to practice, hold games there etc. One of the things though that's on the table with opposing counsel, I'm sorry, Hal's Angels' attorney is whether we could come to some sort of agreement on temporary access. We have kept the CLTC in the loop on these discussions. They're aware of our Guam Rugby Club's proposal as well as Hals Angel's response to that; unfortunately, based on my discussions with Hal's attorney as well the letter that we just received from her yesterday, I'm not sure that we are at a place that we can come to a compromise. We have worked really hard to try to get there but unfortunately it doesn't seem like there's a lot of budging and again, our concern and perhaps there's still room on the table to negotiate this but again, our main concern right now is that we've been just locked out and we need to maintain the fields and decide moving forward; are we going to have access to these fields or not? Do we have to cancel games? Do we have to tell, you know not have tournaments that are scheduled for March? Do you we have to tell youth fourteen and youth sixteen all islanders that you know, they're not going to be able to use these fields anymore? So, I think we're in a place of just uncertainty and we come here today just to provide a status as well as ask whether there is room for the Commission to allow temporary access at this time or you know, go back to the table if the Director, we're just not really sure where we stand in light of the inability to come to some sort of compromise.



**Chairwoman P. Fejeran:** Thank you. **\*\*inaudible\*\*** going back, I know you said all parties were here, I know Hal's Angels' representatives were here at the meeting a few months ago. We got up, we had a **\*\*inaudible\*\*** up there and it seemed like we had come to a very clear verbal agreement for where Guam Rugby's new access will be placed and we said, okay, all parties are in agreement now go hash out the details together. So, I'm not sure I understand what all the details are that were unable to be hashed out. I remember the agreement was to take it on the, if you're looking at the map, it was on the left hand side going up kind of by the pipeline but you would be taking up part of Hal's Angels' property and then going to the right and for the property taken from Hal's Angels' their property be extended into Guam Rugby's property for a net zero, right, they don't lose any property?

**Mr. Ross Morrison:** Yes, approximately we were waiting for some points from the CHamoru Land Trust survey team and the Director did give us a compromise plan with the measurements and stuff and **\*\*inaudible\*\*** survey points. We have some concerns that it may impact the **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay, so, it turns out that work was done on our part to provide what the new boundaries would be? Do we have that?

**Administrative Director J. Hattig, III:** It's in the packet, ma'am. It's a part of the second group, that's an attachment to the emails that were sent, the communications that were sent and my understanding again is that we provided this and this was the compromise that we discussed and we also conducted a site survey out there and we ascertained that anything at all that we were to put out there didn't affect at all what was being characterized by EPA as sinkage holes or drainage holes. These were very narrow and they were close to border of the property so we had our survey team go out and we actually had a scheme developed and it was provided to you to indicate that we wouldn't be affecting the proposed changes in the boundaries wouldn't be affecting any of the drainage or any of the other fields and I haven't received any communication from you, Ross or anything that that was insufficient that this sketch was insufficient. After I sent it to you guys and after I sent it to you all, we requested that you guys work out because the Legal Counsel was present also, if you could work out the finer details, are you amendable to this sketch? So...

**Ms. G. Rapadas:** Let me say this, we did have a meeting with the Director and the Legal Counsel where the Director provided a recommendation as to an alternative access way a limit of how long it might last.

**Chairwoman P. Fejeran:** Which is what? I'm sorry, I'm just catching up as all of this happened offline; so, what was the proposed terms?

**Ms. G. Rapadas:** Well, see that's one of the issues that we have, this was all oral and one of the things I thought was important, I think for all the parties to be on the same page because you know, just having litigated a lot of things, it's always best to have things in writing just to know where we stand. I've requested, Director, can you put this in writing so I can bring this back to my clients; both, Hal's Angels' and my clients were not present at that meeting, it was just legal counsel, so, I said, I'll bring this back to my clients, no problem; but I really need something in writing so that they can see it in black and white; this is what you are recommending and the discussion moving forward was you guys go work it out and us and the other side are trying to work out the finer details but what we don't have, I think, is something in writing saying, this is what the Director recommends, this is what I will recommend to the parties, you guys, see if you can negotiate. We're at this point where Hal's Angels' and I are arguing over everything under the sun at this point; you know, is this going to work, is that going to work. We don't understand that. We don't understand this. So, I guess what we're asking for is what is the recommendation of the CLTC? What are you guys telling us so that we can understand what your position is in writing and we can decide what our options are moving forward and also, say look, this what the CLTC is recommending Hal's, I mean what do you guys have to that because I

would say at this point and I'm just using this as an example. We've talked about how long it might take to construct the alternative access way. That's a real point of contention right now. We are thinking it may take two years but we are trying to negotiate that down. Hal's does not agree that it should take that long and my understanding from the meeting that we had with the Director, was maybe somewhere in the middle eighteen months might work but they're sticking to their point that it shouldn't take twenty-four months and you need to provide this and you need to provide that. So, I think it would be extremely helpful to have CLTC's position down so that we know where we stand moving forward.

**Chairwoman P. Fejeran:** I agree, absolutely. So, we're talking the specific points are property boundaries, right? It looks like we got a recommended property boundary?

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** The period of use of the existing easement, is what you're asking, you'd like to continue to use that easement?

**Mr. R. Morrison:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** My question is why...I'm sorry, I have to understand where Hal's Angels' is coming from because they gave you a year to comply with the order that we gave that your access is through Lada Avenue.

**Ms. G. Rapadas:** Well, we didn't get notice of that until that we weren't able to use that access way until maybe a month or so before we got to this meeting. I think that was one of the discussions that we had, September, maybe?

**Mr. R. Morrison:** **\*\*inaudible\*\***

**Administrative Director J. Hattig, III:** We attempted to serve notice and there was a...

**Chairwoman P. Fejeran:** Back when we first deleted the easement?

**Administrative Director J. Hattig, III:** Right.

**Chairwoman P. Fejeran:** When was that easement actually deleted? 2016?

**Mr. R. Morrison:** **\*\*inaudible\*\*** as we said, when we came to the meetings to renew our license in 2017 for the five years that's when the Commission said, we'll renew your license but you must agree to take out the 2010 amendment which deletes the easement. We didn't agree to it and nobody told us I mean otherwise; it'll actually already been done.

**Chairwoman P. Fejeran:** Yes, it was done.

**Mr. R. Morrison:** There were a lot of behind the scenes activity which we were not involved in or weren't even presented.

**Chairwoman P. Fejeran:** Well, I think it all happened in the meeting. I don't think it was behind the scenes but 2016 was when the case was brought to the Commission, June sixteenth 2016, was that... I don't have the last staff report **\*\*inaudible\*\*** but that was when I was here, the Commission voted to delete the easement that was put in the Hal's Angels' lease. They didn't know it was put in there either. It's almost like what was done to them is now done to you and now nobody is happy, right?

**Mr. R. Morrison:** Well to make the point made, in 2001, the original license was granted and it was surveyed out by DLM, that's when the **\*\*inaudible\*\*** and at that stage **\*\*inaudible\*\*** it was a public access way and was put in there specifically because of the **\*\*inaudible\*\*** in 1996 the **\*\*inaudible\*\*** there was no license to Hal's Angels' at all and then all of a sudden there's a lot of **\*\*inaudible\*\*** so the easement gets taken out. The lots get redrawn and **\*\*inaudible\*\*** it's the CHamoru Land Trust **\*\*inaudible\*\*** and we're trying to be good stewards. We're trying to be accommodating so that's why we negotiated the 2010 license and said, okay, we're agreeable to take out that **\*\*inaudible\*\*** but we agreed **\*\*inaudible\*\*** so that's all good and then all of sudden things changed and we **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** What changed?

**Mr. R. Morrison:** Well all of a sudden, the lots are redrawn. The easement in 2016, the direct easement is deleted and the alternative easement is not acted upon as was documented in the 2010 license amendment.

**Chairwoman P. Fejeran:** What do you mean, acted upon?

**Mr. R. Morrison:** Well, it clearly states that there's a resolution passed by the Board that we had to license amendment the alternative access way is to be constructed forty-foot access way is to be constructed by DPW who are in agreement. Jess Garcia was on board at that time **\*\*inaudible\*\*** if you'd like to get him to testify to it and then 2016 obviously the lots are redrawn and the direct easement has been deleted but there is no alternative access way provided as is stated in the 2010 license amendment.

**Ms. G. Rapadas:** I believe the redrawing in 2016 is because what the Board had done when it **\*\*inaudible\*\*** deleted the easement.

**Chairwoman P. Fejeran:** And that was because access for that property is on Lada Avenue.

**Mr. R. Morrison:** It could be, however, when the field was first constructed when the adopted parks came in. In 1996-1997 Lada Avenue was nothing more than a one lane **\*\*inaudible\*\*** it wasn't even considered an access way and so the field was constructed using the access way off of Santa Monica and that access way has been in place 1996 to this year it's been there and when the license agreement was first drawn up with the masterplan as requested by CLTC the access way was documented and drawn in with the original plans as drawn by land management for the CLTC license agreement specifically **\*\*inaudible\*\*** because at that stage there was no orientation or floor plan from the government or the sporting organization that Lada Avenue would be used for a number of reasons and those reasons would probably come even more exaggerated because of the high residential **\*\*inaudible\*\*** it passes through number one, so, the orientation, the building that were put in there, the improvements that were made for the CHamoru Land Trust nothing was orientated towards Lada Avenue so that's where we are.

**Chairwoman P. Fejeran:** Can you pull up the map, an aerial?

**Commissioner A. Bordallo:** What's the land size?

**Administrative Director J. Hattig, III:** Which one? Rugby or Hal's?

**Commissioner A. Bordallo:** Rugby.

**Chairwoman P. Fejeran:** And you're not currently able to access the field?

**Mr. R. Morrison:** No.

**Chairwoman P. Fejeran:** So, you canceled all the activities there?

**Mr. R. Morrison:** Correct.

**Chairwoman P. Fejeran:** Why? When there's access by Lada Avenue. I'm just trying to understand when you have access on the back, okay, maybe it's not what you intend, but there's access there; why are you not using?

**Mr. R. Morrison:** There's a forty-four to fifty foot **\*\*inaudible\*\*** there's ten to fifteen years of jungle growth there. It doesn't match up with the masterplan which was submitted to CLTC and approved in the 2001 license agreement. There's no funding **\*\*inaudible\*\*** to do it. We got to get permitting to do it. We got to grade it, clear it, foundation it, fence it and there's no parking near which can contravene a masterplan we submitted to CLTC which is in that package.

**Chairwoman P. Fejeran:** So, in order to access the easement, you would have to what? You would have to get a permit and everything?

**Mr. R. Morrison:** If we try to access Lada Avenue, yes. We have to apply for clearing and grading permits. We have to fence it, obviously we have the same problems we have now **\*\*inaudible\*\*** there

is no parking **\*\*inaudible\*\*** at that end so it means if it there was an access way all parking would have to be on the road way, there's not sufficient capacity of Lada.

**Chairwoman P. Fejeran:** So, what are the other specific terms that you're unable to negotiate on? I have property boundary, the period of use for the existing easement.

**Ms. G. Rapadas:** That's correct, access for the duration of the construction if the alternative access way shouldn't work. There's a disagreement on joint parking because, when it was built; we built the parking with **\*\*inaudible\*\*** for both parties. We're unable to come to an agreement on whether or not that will remain joint or not.

**Mr. R. Morrison:** And that joint parking **\*\*inaudible\*\*** it was documented clearly in the 2010 licensing.

**Ms. G. Rapadas:** And also, you said the easement itself, we would like to use it for all purposes.

**Chairwoman P. Fejeran:** The new easement?

**Ms. G. Rapadas:** The existing public easement, we would like to use it for all purposes during the duration of the construction.

**Chairwoman P. Fejeran:** I don't think that that's an existing easement but I know what you mean, the one that goes right through Hal's Angels'.

**Ms. G. Rapadas:** Yeah, exactly.

**Chairwoman P. Fejeran:** Okay, so the period of use of the easement through Hal's Angels'.

**Ms. G. Rapadas:** There's a question of the removal of the waterlines and the water meter.

**Commissioner J. Cruz:** How many inches is that?

**Mr. R. Morrison:** Two-inch. Two-inch line.

**Chairwoman P. Fejeran:** And where is the meter?

**Mr. R. Morrison:** The meter is against the Santa Monica Avenue. It **\*\*inaudible\*\*** goes along Santa Monica and then it goes down what it used to be the public access way of utilities.

**Ms. G. Rapadas:** The Director has a copy of my proposal, oh I'm sorry the emails. I believe that's the areas of contention.

**Chairwoman P. Fejeran:** Okay. Well, it sounds like negotiations are basically broken down and that's why you're here today, right? So, what I'd like to ask is to give the Commission some time to read through these emails and then we can revisit it at our next meeting and at that point. I'm assuming that in these emails and the letters that were also printed for us that Hal's Angels' has clearly stated their positions, is that right?

**Administrative Director J. Hattig, III:** Well, it's not clear; there was some contention because they didn't engage for a while. I received an email that they were unable to meet **\*\*inaudible\*\***. I had requested a meeting and it was documented via email but Attorney Terlaje said, no, I'll reach out to Attorney Rapadas and we'll continue and then I got this email on December second saying that, the field storages were vandalized and broken into and they were requesting immediate access to prepare that and to start and so in the very beginning I had brought these terms to the table with both parties and because both parties had differences I asked them and I guided them by this right here because this was the initial point of contention was the easement itself so guided by the easement. We provided this and through our discussions we talked about the term, we talked about temporary access, we talked about the removal of the waterline; and we felt that we were very close at point so, I left it to the two representatives. The legal counsel can verify this to work out the final details. If I had provided this which answers their question about access and then I provided the meeting place for them to come together and discuss and then I encouraged them to meet because they had specific issues to work out. I don't know where the break down...I think the break down occurred when there was no response from Hal's Angels'.

**Ms. G. Rapadas:** I think, unfortunately, because the recommendation wasn't memorialized, we... and some time had passed, it didn't seem to me that we were all in the same page anymore with Hal's because... I mean and I'm not going to speak for Jackie, she has her position and I respect that but unfortunately, because we didn't have something on paper; it seems that we were not moving forward and not really agreeing with what was recommended at that meeting. So, for us, I think the reason why this has been pushed forward by us is because of the recent events of the vandalism and what not and we just, we really just want to get in there and maintain and repair, maintain the fields and repair whatever has been broken and then clean up whatever has been vandalized.

**Mr. R. Morrison:** And we would like to make the point to the Commission that even though it's a Guam Rugby Club field and it's the home field for Simon Sanchez High School's boys and girls, Santa Barbara's boys and girls, the under fourteens and sixteens and at the moment they're all scrambling around trying to practice in parks and that sort of area makes it extremely difficult and the fields that they are practicing on, frankly is not safe. If we leave this another couple of months, we're probably going to lose completely the grass services that have been **\*\*inaudible\*\*** and maintained over the last twenty years. The grass is now probably thigh high. We also can't get in. We need welding equipment. We need machines to get in and secure the doors and the lock storages that have been vandalized twice now and **\*\*inaudible\*\*** the fields are no longer monitored and people not being able to use them every day of the week as they previously did. So here we are requesting seriously from CHamoru Land Trust Commission to please review this promptly, timely and the high school season is in full swing and we would really like some sort of action some sort of assistance to gain temporary access and frankly **\*\*inaudible\*\*** the access was utilized for the last twenty-three, twenty-four years and nothing changed except there's a gate on the front.

**Chairwoman P. Fejeran:** So, we're in receipt of the December sixth letter, Attorney Rapadas and then Attorney Terlaje, December eighteenth letter. Would this December six letter generally summarize the asks of Hal's Angels **\*\*inaudible\*\***?

**Ms. G. Rapadas:** So, the letter is actually is just limited to just a temporary proposal for access. We don't have an outline of what we want and what they want in terms of duration and what not. I think we had talked about that at the other meeting but again none of that was memorialized.

**Chairwoman P. Fejeran:** Okay, well, perhaps you can memorialize your side and then forward that and then **\*\*inaudible\*\*** for those same points.

**Ms. G. Rapadas:** I apologize, actually the Guam Rugby Club did put together a rough proposal and then we submitted... actually, we gave it to you at a meeting where both of us were present but we'd be happy to provide it again.

**Chairwoman P. Fejeran:** I think what **\*\*inaudible\*\*** I understand that you haven't been able to access it and it's really jeopardizing the sport and a lot of kids that play the sport and also the investment that you've already put into the property so I do want to do this as quickly as possible but again, I think what we need to see is what you would agree with and then we would also ask the same as Hal's Angels and then both of you present it to the Commission for our decision.

**Ms. G. Rapadas:** Understood, and we'd be happy to provide that to you.

**Administrative Director J. Hattig, III:** Thank you.

**Mr. R. Morrison:** I would like to add a comment, I thought we were pretty close, we thought we were that close to getting it done and then **\*\*inaudible\*\*** Hal's Angels' **\*\*inaudible\*\*** right away and then **\*\*inaudible\*\*** in the meantime, we have no access to the field and the kids have no access to the field and the next championship **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** How did the vandals' access?

**Mr. R. Morrison:** They stole a four-wheel **\*\*inaudible\*\*** apparently from a construction site and came over a **\*\*inaudible\*\*** that's been formed by Hal's Angels, came over the **\*\*inaudible\*\*** top and gates, pulled everything off and smashed it not just once twice, twice within the last three weeks.

**Chairwoman P. Fejeran:** Oh my gosh. Where is this? You said, to access it **\*\*inaudible\*\*** Hal's Angels' **\*\*inaudible\*\***.

**Mr. R. Morrison:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** Oh, that side.

**Mr. R. Morrison:** And then driven over to the Rugby part so...

**Chairwoman P. Fejeran:** And this is a part of the bigger rash of vandalisms, I know that Wettengel was also recently vandalized.

**Mr. R. Morrison:** Could have been the same, the same guys here.

**Ms. G. Rapadas:** My understanding from Jackie is that **\*\*inaudible\*\*** I don't know but we are concerned because we don't have access to do anything about it.

**Mr. R. Morrison:** We can't even get in to re-secure the doors so at the moment everything is basically **\*\*inaudible\*\*** as much as we can hand carry out of there. We've got our generator. The generator is unsecured.

**Administrative Director J. Hattig, III:** When they did inform me of this vandalism, I reached out to, it's documented here to Attorney Terlaje. I even asked the Legal Counsel to reach out to Attorney Terlaje maybe that avenue would provide better results so we did have an attempt to ask for temporary access just to fix it, at least to fix it. In the beginning I had proposed temporary access for games and for specific areas only.

**Ms. G. Rapadas:** That's right.

**Administrative Director J. Hattig, III:** Not continual use but at least some kind of temporary access that we could agree upon so that we could get the process going. My apologies if I didn't memorialize those but my intent was to allow the two parties to do that because if I did it and both parties disagree we would be back at the table anyway so that's why I suggested in the meeting that you guys, we're this close at the end of the meeting just put something together and then we'll...

**Ms. G. Rapadas:** Well unfortunately, I had a conversation with her the other day, she's you know, our conversations were; "Why are we talking about games?", "Why are we talking about you know other leases?" We were only talking about emergency, it was not what... you know, we had discussed more than that so we're not here and I don't want to hash out our discussions because she's not here and I don't want to characterize any of it but that's just where we're at unfortunately and we understand the Commission's position and we're hopeful you can assist us in moving this matter forward.

**Administrative Director J. Hattig, III:** I'll contact Attorney Terlaje and make sure that's she's present at the next meeting.

**Chairwoman P. Fejeran:** Yeah, I think what I'd like to have happen in the interim is for you to provide what you would agree to, the terms that you would be amendable too and also ask that we ask Hal's Angels' for those exact same terms but from their perspective and then when we meet again we can have all the maps.

**Ms. G. Rapadas:** We're also working on I believe on quotes on how much it would cost to construct this alternative access way and as well as...

**Mr. R. Morrison:** Well DPW, once again, we've approached DPW and I am still very positive in terms of assisting and making the access way because obviously one of the party's was involved in CHamoru Land Trust **\*\*inaudible\*\*** so he knows exactly what's going on. What we do have a problem with is the construction of the waterline because if we have to remove the waterline, once again, we cannot hold any practices or games or anything where they aren't providing **\*\*inaudible\*\*** towards us,

running water so we got to be able to run a waterline from the rear and the initial cost can be somewhere between forty to sixty thousand. Once again, it's time to do that.

**Chairwoman P. Fejeran:** Okay.

**Ms. G. Rapadas:** So, we'll provide, what we'll provide is a proposal and then any documentation to support the construction cost and what not.

**Chairwoman P. Fejeran:** Okay, thank you.

**Ms. G. Rapadas & Mr. R. Morrison:** Thank you.

**Chairwoman P. Fejeran:** Legal Counsel, are we at a point where we're going to be renegotiating a lease base on the new lease terms and maps? Are they both at a renewal stage, what is it? I just want to be able to know that we are going to memorialize it once and for all, both have accurate leases, etc....

**Legal Counsel N. Toft:** I would have to look at Hal's lease to see whether or not it **\*\*inaudible\*\*** expired but I believe Rugby is on just on a month to month at this point and I think theirs had expired and they were seeking a renewal and then that's when this whole issue arose was because in the renewal phase I think that was the first time they've learned about the easement being removed and then that caused **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Yeah, okay, so they would need a new lease and then Hal's Angels' would have an amended lease.

**Legal Counsel N. Toft:** Right.

**Chairwoman P. Fejeran:** Okay, so if we could have the documents at least prepared and then have those ready for review and then it would just be plugging in the final agreed upon details.

**Commissioner A. Bordallo:** Where did they access the first **\*\*inaudible\*\*** that was blocked? **\*\*inaudible\*\***

**Commissioner J. Cruz:** Right here.

**Commissioner A. Bordallo:** That's where they broke in **\*\*inaudible\*\***.

### **Multiple responses**

**Administrative Director J. Hattig, III:** I think that we were really close. The sketch provides the...pretty much the approximate square footage that's going to be taken from both sides and where the new property boundary is going to be. When we left that meeting, we were this close. Nic can verify and all they had to do was put it in terms, the same thing you asked for today is the same thing I asked for then so I don't know why they weren't able to get together. One side stopped talking to the other, that's what I **\*\*inaudible\*\***.

**Administrative Director J. Hattig, III:** Ma'am I just found out from the staff that we do have an applicant, is here to address his residential lease so if we could...

**Chairwoman P. Fejeran:** Yes. Sure. So, we're tabling Global Recycling, New Business, Agricultural and Residential Leasing, Constituent Matters; the next item on the agenda.

## **NEW BUSINESS**

- 1. Agricultural and Residential Leasing**
  - a. Constituent Matters**

*Doris Mendiola Duenas*

**Chairwoman P. Fejeran:** Hi Sir, thank you for your patience. So, this is Duenas?

**Land Agent I J. Dayday:** Yes.

**Chairwoman P. Fejeran:** Yes, okay. Ms. Doris Mendiola Duenas, we all have the staff report, has a lease dated 2003 for Lot 11 Block 4 Tract 319 in Agat. If you can summarize the request today, thank you.

**Land Agent I Jessica Dayday:** Hafa Adai, Commission, my name is Jessica Dayday, Land Agent with the Chamorro Land Trust Commission, we have here...

**Mr. Chris Duenas:** I'm Chris Duenas, the son of the late Doris Mendiola Duenas.

**Land Agent I J. Dayday:** Mr. Duenas has power of attorney over the beneficiary of Ms. Duenas. So, this case before you, the first issue is a termination of a residential lease for Lot 11 Block 4 Tract 319 in Agat. This lease was signed on May 8, 2003, however, due to I'm not really sure what the reason was for Ms. Duenas' request to relocate but it was approved to be relocated to Lot 20, Block 12, Tract 11405 in Dededo. Ms. Duenas is a December second 1995 applicant. She was, like I said, she was issued a lease for the tract 319 in Agat and it wasn't surveyed. That property was not surveyed and so when they relocated her which the approval to relocate was September eighteen 2012. Okay, so when they first came in here; the request last year, they came in here to do a beneficiary take over but further upon further research of the case we found that there was still a lease for the old lot and they were still accessed with property tax. They are current with the property tax. They had paid it. They turned in all their receipts; so, the new property, they surveyed; there is an approved map, an approved survey map for the new property.

**Chairwoman P. Fejeran:** Okay, thank you. Question, the lease was issued for the property in Agat, it was declined and the relocation to Dededo was approved? Did that original lease ever get amended with this relocated property?

**Land Agent I J. Dayday:** The lease for Agat?

**Chairwoman P. Fejeran:** The lease, yeah.

**Land Agent I J. Dayday:** Well she did sign a decline after the lease. She was occupying that residence.

**Mr. C. Duenas:** They were using the lot.

**Chairwoman P. Fejeran:** They were using it?

**Mr. C. Duenas:** Yes, they were using the lot and then they had issues with the surrounding Land Trust neighbors and they tried to address the issues with them however, it was difficult dealing the surrounding neighbors. So, she came back to CHamoru Land Trust and told them about her issues with the surrounding people and then suggested to her that she transfer so it was the land trust back then that suggested that she just move rather than dealing with the issue. They wanted her to just move out so she was offered a property on Swamp Road and they called us one day to go take a look at it and there was someone there **\*\*inaudible\*\*** just telling everybody, those different families, okay, this is your point, this is your point. This is you know, so we were there at that property site and after that we were told we had to pay a fee for a surveyor and in order for us to even move forward and we did that. My mom has been back and forth with CHamoru Land Trust since that time and that was back in 2012 and she passed away even before she could sign her lease for the Dededo property so now we're here trying to fix it so my dad could take what was supposed to be hers.

**Chairwoman P. Fejeran:** Okay, thank you Mr. Duenas. I'm sorry that you had to go through that but you're here today so we can **\*\*inaudible\*\***. Even though the property was shown and basically approved for her to relocate, the original lease was never amended for this new location?

**Land Agent I J. Dayday:** Right. Correct.

**Chairwoman P. Fejeran:** That's why Agat is still showing as her lease?

**Land Agent I J. Dayday:** Correct. And assessment on property tax.

**Chairwoman P. Fejeran:** But they didn't pay the property tax?



**Land Agent I J. Dayday:** Yes, the receipts are in there.

**Chairwoman P. Fejeran:** Okay.

**Administrative Director J. Hattig, III:** **\*\*inaudible\*\***

**Chairwoman P. Fejeran:** I'm sorry, could you speak up?

**Administrative Director J. Hattig, III:** Is it possible to do an addendum now and then correct the property description rather than doing a termination of the original lease, if the property is surveyed already and they're...are you now at the Dededo property?

**Mr. C. Duenas:** We've been cleaning, we've done a lot of cleaning **\*\*inaudible\*\*** let's see, about ninety-eight percent of the property has been cleared. My family has just been going there chopping down tangan-tangan (*Leucaena leucocephala*), cutting trees but there's still no infrastructure so obviously we can build or do anything there because there's still no infrastructure.

**Commissioner J. Cruz:** Who is the beneficiary for **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** So **\*\*inaudible\*\*** the beneficiary?

**Land Agent I J. Dayday:** So, the first lease, the lease for Agat actually was recorded.

**Administrative Director J. Hattig, III:** Oh, that's why, that's right, I'm sorry that's why we have to terminate, you're right, I'm sorry.

**Chairwoman P. Fejeran:** It can't just be an addendum?

**Legal Counsel N. Toft:** Well because it was recorded.

**Chairwoman P. Fejeran:** I see, okay. So, the beneficiary is...

**Legal Counsel Toft:** Edward Tomas Duenas.

**Chairwoman P. Fejeran:** Edward Tomas Duenas is the beneficiary?

**Mr. C. Duenas:** Yes, that's my father.

**Chairwoman P. Fejeran:** That's your father? I see that it's October 2019 that he's identified as the lessee, I guess that was approved...

**Mr. C. Duenas:** October.

**Chairwoman P. Fejeran:** 2019.

**Land Agent I J. Dayday:** There was a process for beneficiary take over but because the residential lease is recorded. We got to come to the Commission to request for termination. We wanted to do it all at one time.

**Chairwoman P. Fejeran:** Okay.

**Mr. C. Duenas:** Yeah, I believe that was the first time we came in to try to change it from my mom to my dad, so it's been a little over a year since we've done all that.

**Land Agent I J. Dayday:** Those are just all his documents.

**Multiple discussions**

**Chairwoman P. Fejeran:** To the father?

**Land Agent I J. Dayday:** Yes, Edward T. Duenas.

**Commissioner J. Cruz:** Motion to approve the termination of lease for Doris Mendiola Duenas for Lot 11, Block 4, Tract 319, Agat.

**Chairwoman P. Fejeran:** Motion made.

**Commissioner A. Santos:** I second it.

**Chairwoman P. Fejeran:** Seconded by Tan Amanda. Further discussion?

**All Commissioners:** None.

**Chairwoman P. Fejeran:** All those in favor?

**All Commissioners:** Aye.

**Chairwoman P. Fejeran:** Ayes have it. The lease is terminated. Thank you.

**Commissioner J. Cruz:** Our second motion, is motion to approve the issuance of a residential lease for Edward Tomas Duenas on Lot 20, Block 12, Tract 11405, Dededo, containing an area of one thousand nine hundred fifty-one square meters.

**Commissioner A. Bordallo:** I second it.

**Chairwoman P. Fejeran:** Motion made and seconded. Sorry, this is for Lot 20, Block 12, Tract 11405, is that right?

**Commissioner J. Cruz:** Yes.

**Chairwoman P. Fejeran:** Okay. Further discussion?

**All Commissioners:** None.

**Chairwoman P. Fejeran:** All those in favor?

**All Commissioners:** Aye.

**Chairwoman P. Fejeran:** Okay, ayes have it. The lease has been approved. Thank you for your patience. Okay, I also some representatives from GEDA. I know the time is five o'clock p.m. You're here for a check for payment? **(Laughter)** Is the Commission okay to go passed...this has been needing attention so this should go pretty quick. Okay, thank you. The next item GEDA, under New Business – Draft requests for proposals for commercial leasing of three properties declared commercial.

## **NEW BUSINESS**

### **1. Commercial Leasing**

#### **a. Guam Economic Development Authority – Draft Requests for Proposals for Commercial Leasing of three properties declared commercial**

**Chairwoman P. Fejeran:** In our packets, we were provided three draft RFPs to request for proposals. This is why we signed an MOU with you guys, and this is probably a walk in the park putting this together but we don't have the in-house capabilities so...appreciate that. The first one I'd like to look at is for property, Lot 5075 in Tamuning, this is the draft of request for proposal, thirty-three pages. I just have a couple of comments, for page one, the **\*\*inaudible\*\*** section should be revised to match the subject lot 5075, Tamuning. I believe it erroneously states Lot 7054R8.

**Mr. Larry Toves:** Yes ma'am, we'll make the correction.

**Chairwoman P. Fejeran:** Okay, thanks. I was able to look through this, I appreciate that you did a GEDA/CLTC for a lot of these references, I guess the decision makers.

**Mr. L. Toves:** So, the intent there is just to make it very clear that we're acting on behalf of the Commission and so that if there's any decision making, we bring it to this Commission for approval before we move forward.

**Chairwoman P. Fejeran:** Thank you. On page eleven, sub-lessees; would GEDA still be involved in a sub-lessee approval process? Or would be CLTC?

**Mr. L. Toves:** It only happens if you're a current tenant on the property, you're the main tenant. If they wish to sub-lease they would come to us with a request we would review their request put a recommendation together and bring it to the Commission, considering all the aspects are in line and what we can charge them for and what we cannot charge as far as rents and any other **\*\*inaudible\*\*** we'd bring that to the Commission **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay, got it. They'd go to you. Let's say, they're two years into their lease they want to do a sub-lease because you are managing the lease for us, they would go to you?

**Mr. L. Toves:** That's correct.

**Unknown:** And then we would present it to the Commission for approval.

**Chairwoman P. Fejeran:** And then we kind of get to the **\*\*inaudible\*\*** of the property on page fifteen under the section. For scope of project overview, the property has potential for commercial use. Does that include mixed use because it is a residential multifamily? Could we add that in so that we can show that we're amendable to mixed use developments?

**Mr. L. Toves:** Whatever is consistent with the zoning law...

**Chairwoman P. Fejeran:** Would a commercial be consistent with the multifamily R-two zone?

**Mr. L. Toves:** I believe that is conditional at this point, it's not permitted use.

**Commissioner J. Cruz:** But maybe you can include whatever is conditional use is allowed.

**Mr. L. Toves:** Commercial?

**Commissioner J. Cruz:** No, whatever is listed as conditional use...

**Mr. L. Toves:** Is allowed on R-two?

**Commissioner J. Cruz:** Yeah. Because they could come for conditional use for different activities.

**Legal Counsel N. Toft:** Yeah, they would have to come before the Land Use Commission.

**Chairwoman P. Fejeran:** I guess we'd have to tailor it to the R-two zoning designation?

**Legal Counsel N. Toft:** Well they would have to come in with their proposal as far as what they're offering.

**Chairwoman P. Fejeran:** Okay. If it's consistent or not?

**Legal Counsel N. Toft:** Yeah.

**Unknown:** Madam Chair, what we look for is usually size and **\*\*inaudible\*\*** for the property. In this particular case because it's zoned for R-2, we would work with the developer if their proposal is to develop it for commercial use. We would work with that developer to get the property rezoned.

**Commissioner J. Cruz:** And that would increase your **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** When I say mixed use, I'm thinking commercial and residential on one property, I don't know if...

**Commissioner J. Cruz:** That one you would have to go to PUD or a PD developer **\*\*inaudible\*\***.

**Commissioner A. Bordallo:** **\*\*inaudible\*\***

**Administrative Director J. Hattig, III:** I think this is the visual, **\*\*inaudible\*\*** property map, 5075 behind Nissan.

**Chairwoman P. Fejeran:** It should be the whole property. It's different now.

**Administrative Director J. Hattig, III:** Yeah, they created a little easement there.

**Chairwoman P. Fejeran:** Also, I think it'll be important to include the info to what GWA is doing to the property because I believe our last agreement with GWA for this property. They have a right-of-entry but at the end of the right-of-entry they're going to create a strong water retention basin. They're going to build it up so it will be... I think it would be important to include that in the or somewhere in the property's considerations.

**Mr. L. Toves:** I'm sorry, GWA has a right-of-entry for the lot that is being proposed for leasing?

**Commissioner J. Cruz:** Along East West Rental.

**Chairwoman P. Fejeran:** Yes.

**Mr. L. Toves:** And I think you said, at the end of that they're going to...

**Chairwoman P. Fejeran:** At the end of the term of the right-of-entry we put several conditions in there for them to do certain things to the property to get it ready for commercial leasing. Maybe we can provide them a copy of the right-of-entry that way you can better describe the character of the property because I don't think it could all be used for development because of this **\*\*inaudible\*\*** water. Director, you'll give them the right-of-entry so that they can have it and they'll see what the potential developer can expect.

**Administrative Director J. Hattig, III:** Yes.

**Chairwoman P. Fejeran:** I just wanted to find out why 4.1.4 was included here, my name of property?

**Mr. L. Toves:** It's a standard provision that we put, obviously if they proposed to remove soil or coral from the property then that means CLTC approved.

**Chairwoman P. Fejeran:** Okay. I didn't see in here discussion of how this is a CHamoru Land Trust property and a lease, a commercial lease. Maybe it's **\*\*inaudible\*\*** with CLTC/GEDA, maybe just to specify on four point three **\*\*inaudible\*\*** responsibilities. A lease agreement will be prepared once negotiations with a successful offer have concluded. The lease is the CHamoru Land Trust lease because it's not a GEDA lease, right?

**Mr. L. Toves:** Under the section two-point six point one on page seven.

**Legal Counsel N. Toft:** It's covered.

**Chairwoman P. Fejeran:** Got it. I missed it and the next section I wanted to discuss is the evaluation criteria. I know that it looks there's a thousand-point system and it talks about conformance with the RFP, financial, expertise and experience, rent, participation rent and other payment alternatives/terms so I'm assuming those are very standard evaluation criteria but then on the paragraph preceding that table it says, in the event of tie scores. Oh, I see, so if there's ties, do you get ties a lot or no? In the event of tie scores, proposals will be further evaluated in terms in of the potential to grow the economy, **\*\*inaudible\*\*** generation of jobs, creation of direct and indirect economic activity in the shortest possible time, utilization of existing business without **\*\*inaudible\*\*** against them and other objectives with GEDA's enabling legislation. I'm just wondering if we can add in like bonus points if the development would benefit the CHamoru Land Trust and its beneficiaries.

**Mr. L. Toves:** Actually, we'll probably just make that change so it will reflect CLTC and your name on the statute **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** But those would only kick in if there's a tie. There's probably never going to be a tie but I would like there to be some kind of consideration that these commercial licenses are for... I mean maybe that someone's development is not highest at best use maybe we're not getting all of the money that we possibly could but I think that there is some kind of benefit for the program and our beneficiaries, I would say, we take a little bit of lower rent and provide a place where our beneficiaries would have a benefit. How will that be built in, I guess in the evaluation criteria?

**Mr. L. Toves:** We'll draft the language and we'll either add or deduct some of the other evaluation criteria's and put them specific **\*\*inaudible\*\*** that way **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** Okay. Is the Commission okay with that change adding that in? I think what it does, like I said it gives bonus points to that developer that is considering that this is Land Trust property and maybe **\*\*inaudible\*\*** aside from renting it.

**Mr. L. Toves:** Maybe we can...on page twenty, sixth evaluation criteria, maybe we can modify that one because that's kind of what you're talking about, may receive a less in rent but in exchange for that you receive a benefit like paving CHamoru Land Trust access ways into residential areas. You want to be able to include within the consideration as to whether you're going to approve a lease so you're looking at the total benefit as opposed to just what we've listed here so maybe we could do something with this last evaluation criteria to include other benefits that the developer would offer to the Commission. Would the number of points, two hundred points, be something the Commission be willing to accept? What we did was we waited, rent was the highest, three hundred points for rent everything else was lower than that because we believed that the Commission was interested in the amount of rent the developer would pay so we gave that evaluation criteria more weight. Would two hundred be acceptable to the Commission for other benefits offered by the developer that would assist or benefit the CHamoru Land Trust.

**Chairwoman P. Fejeran:** I think so. I like the idea of maybe the developer saying, okay I won't be able to pay this much rent but I'll be able to offer this service like you said, paving roads and stuff. I'm even thinking of a part of what the development is can we create a benefit for our beneficiaries. I mean making like even a setting up of a scholarship or within this development, if it's commercial office that they pledge to provide a unit that would be used solely for the development of cottage industries that are developed by the CHamoru Land Trust Beneficiaries, something to kind of help...there's so many different aspects that our program can benefit from and yeah, I'm okay to kind of use this as way for developers that are creative and innovative to figure out a way how they can provide that benefit for the Trust.

**Mr. L. Toves:** I'm just thinking in terms of how we would I mean this is going to be in comparison, right? If you get at least two developers and then submit a proposal then we would have to compare one against the other. A developer that comes in and proposes something like you're proposing would have to be evaluated against another proposer who proposes higher rent. We would have to kind of balance that out. It would probably be based on the value of what that developer is proposing like a unit for cottage industry versus someone who's willing to pay more rent so we would have to evaluate that and then we would come to the Commission and present it and say, this is our highest ranking one. It could be the one that pays less but because they're proposing things like that but in the end the Commission would be to approve it. So, you may not agree with what we recommend as the highest ranking one and let's say we go to the one that says, we're going to pay the highest amount of rent so we recommend that that's the developer you chose but you may believe that we should have given more points to a developer who's proposing something you aren't and maybe they should be at a higher rank. I think we can build that into this and we could try to encourage developers to think outside the box and provide things other than money in their development.

**Chairwoman P. Fejeran:** Okay, great.

**Mr. L. Toves:** Just for your information Madam Chair to add to that, in most instances that we've dealt with before. During the event we should process we always prefer to have somebody from the Commission whether it be a staff member or someone from the board itself to be **\*\*inaudible\*\*** so those issues that you just brought up can be addressed at that point in time.

**Chairwoman P. Fejeran:** Okay, great. I don't have any other questions or comments on these other changes. I do have one question, because we did give four properties to you and then we received a letter on October fourth about Tract 10123 in Dededo, Mr. Toves. Tract 10123 is also located in Yigo and it was identified to be developed to be RFP'd for commercial purposes but it wouldn't be commercial use it would be for development for residential housing, right? That was the hope and then we got the letter asking us a bunch of questions that I feel like it's that's why we're giving it to you guys so you guys can work out these questions. Like one of the questions is, how infrastructure cost be fairly apportioned? How do we ensure that costs incurred by the developer are legitimate? To me, that sounds like something that would be a part of the RFP process and proposal and evaluation.

**Mr. L. Toves:** I think we understand that Madam Chair, but the point that we're trying to get across is that **\*\*inaudible\*\*** when we got the resolutions for each of the properties, we understood that there was a masterplan or some sort of plan that had already been commissioned for this piece of property and I think we were just trying to see if we can get that information as part of our research to develop the RFP for that particular site but if there is none then we'll gladly do the research but it was my understanding, correct me if I'm wrong, I believe there was supposedly some work had already been done as far **\*\*inaudible\*\*** for this development, the property for the housing, the residential uses and in addition to the commercial use upfront adjacent to Marine Drive.

**Unknown:** I think that memo was sent requesting approval or additional time for us produce the RFP for that particular property because it's much more complicated than the three so we really didn't want to hold up the three while we were working on that particular one. As Larry indicated, we did find out that there is no subdivision map for this piece of property. We wanted to determine how much infrastructure is needed. How many lots were going to **\*\*inaudible\*\***? Did the Commission want to subdivide into and we found out that there's no subdivision map? It was our understanding that a portion of the property would be allocated for commercial use and that the developer then rather than paying for ground rent they would pay for the infrastructure and so we've met with Guam Housing Corporation which is the only entity that provides home loans to lessees and they were telling us the experiences they had with the Lada Estates project that was delayed and there was all kinds of issues associated with it, it went to court. I mean there were a lot of issues and so we felt; we better request from the Commission to give us more time on this particular one because it is so complicated and some of the issues identified in that memo were based on the meetings that we had with Guam Housing Corporation. CHamoru Land Trust determines who are eligible for the lots but Guam Housing determines who has the repayment capability on the loan and so there's different players' different requirements and it's more complex and we were asking for additional time to work on that one.

**Commissioner J. Cruz:** Is this the same side across the gym in Yigo?

**Mr. L. Toves:** Yes.

**Commissioner J. Cruz:** There was a tentative layout for this area, but if I'm not mistaken, I don't know whether there was a document that was...

**Engineer Technician II M. Javier:** This is the property and this is the layout but it has not been approved yet.

**Chairwoman P. Fejeran:** It's not approved?

**Engineer Technician II M. Javier:** No.

**Chairwoman P. Fejeran:** I'm okay with it not being approved. I also want to see what a developer thinks is best could go in there. It sounds like you're still working on it, you haven't given up.

**Mr. L. Toves:** No, have not but it is complex.

**Chairwoman P. Fejeran:** Okay so in regards to your comment about Guam Housing providing a loan based on your ability to pay and then our identifying the lease holders who can move in there; we can build into our lease and it's within our legislation that says, we can only award leases that we feel can satisfy our lease terms and part of the lease terms will be the fact they'd have to be able to qualified by Guam Housing so I know we can do it that way but what we need your help is to kind of use this as a pilot project on how do we get a developer in there and develop homes because so many of our lessees can't build a home, low cost homes I'm thinking about Ironwood. They're able to go in there and use property smaller than this and put in so many units that are well built and maintained and that's kind of the direction that we like this to go.

**Mr. L. Toves:** Okay, but rest assured Madam Chair that we cover all basis, it's a little complicated but we'll finalize this and present it to you.

**Chairwoman P. Fejeran:** Okay great, thank you. Anymore questions for our folks from upstairs?

**Commissioner A. Bordallo:** The last one in the list, is this in Tumon?

**Chairwoman P. Fejeran:** Tract 111, Lot 12, I think so, that's kind of across GVB.

**Commissioner J. Cruz:** Further up.

**Mr. L. Toves:** This is the lot just right across from PROA. It's just right over two thousand five hundred square meters so **\*\*inaudible\*\***.

**Chairwoman P. Fejeran:** And then the second one in our packet is just right behind the Yigo gym, it's really big.

**Commissioner J. Cruz:** \*\*inaudible\*\*.

**Chairwoman P. Fejeran:** Yes, 7054-R-eight.

**Commissioner J. Cruz:** Which one there is unregistered?

**Administrative Director J. Hattig, III:** Actually, it's registered now.

**Commissioner J. Cruz:** Okay, great.

**Mr. L. Toves:** Just for your information too, in preparing for this we actually met with the village mayors on these lots just so we can inform them as to \*\*inaudible\*\* and they're all in full support of this.

**Chairwoman P. Fejeran:** Okay thank you very much. Going back to the MOU, are you putting together or tracking the time spent on everything? I don't have the MOU with me but are you supposed report to us quarterly on the efforts expended etc...

**Mr. L. Toves:** Yes, as part of the monthly, progress reports we do report that as far as \*\*inaudible\*\* and expenses. We can narrow it down even to staff time because we do keep track of all the staff hours to each property management or contracts and that's all incorporated into the report.

**Chairwoman P. Fejeran:** And the progress report is forwarded to the Director?

**Mr. L. Toves:** Yes, and then we present it to the Commission.

**Chairwoman P. Fejeran:** Or will present it to the Commission?

**Mr. L. Toves:** Yeah, normally we present it at your monthly meetings. If you desire that we could come to you every month and provide you with progress reports because that's what we do with Ancestral Lands Commission.

**Chairwoman P. Fejeran:** Honestly, we have negative time in our meetings.

**Mr. L. Toves:** Okay that's fine if you prefer, we'll just give it to the Director.

**Chairwoman P. Fejeran:** Okay thank you.

**Mr. L. Toves:** Can I ask? We finalize this, how do you want to proceed forward with this given the comments that we received today? Do we revise it and then come back to the Commission or...?

**Legal Counsel N. Toft:** I think if you do a motion to \*\*inaudible\*\* move forward after the revisions that we talked about are in place and \*\*inaudible\*\* either you or the Director or both just review it and give it a final nod basically.

**Chairwoman P. Fejeran:** Okay, so the motion would be basically approve these three draft RFP's for finalization once the comments are incorporated as discussed during the meeting, okay. I need a motion...this is to approve the RFP's for Lot 7054-R8, Lot 5075 and Lot 12, Tract 111 with incorporation of comments discussed today.

**Commissioner A. Bordallo:** Motion to approve RFP's for Lot 7054-R8, Lot 5075, Lot 12, Tract 111 with incorporating comments that the Director, Chairperson and Commission \*\*inaudible\*\*.

**Chairwoman P. Fejeran:** Motion made.

**Commissioner A. Santos:** I second it.

**Chairwoman P. Fejeran:** Seconded by Tan Amanda, any further discussion?

**All Commissioners:** None.

**Chairwoman P. Fejeran:** All those in favor?

**All Commissioners:** Aye.

**Chairwoman P. Fejeran:** Okay, once those are incorporated.

**Administrative Director J. Hattig, III:** Then give them to me and I'll forward them to the Commission.

**Chairwoman P. Fejeran:** Thank you, thanks for bringing that up. Okay, so we have Global Recycling, one constituent matter, expiring leases within the next two years. I'd like to table that. I'd like to table the financial report and I'd like to table the Director's Report.

**Administrative Director J. Hattig, III:** Ma'am, if I could just put on record, I'd like to submit some of the information that was requested so that it's for the Commissioners' to review. The report on the Listening Sessions is one, the second is the priorities to be accomplished in 2020 as per our discussion and then the proposed plan for the selection of the opening up of the previously opened easements for consideration, the Commission's consideration, as per some of this direction.

**Chairwoman P. Fejeran:** Okay, I see, they're three pages.

**Administrative Director J. Hattig, III:** Three separate pages, yeah.

**Chairwoman P. Fejeran:** There's no one for public comments today, right?

**Administrative Director J. Hattig, III:** It's all staff at this point.

**Chairwoman P. Fejeran:** Commissioners Comments?

**Administrative Director J. Hattig, III:** Would you like us to print the summary and motions, now?

**Chairwoman P. Fejeran:** Oh yeah, is it printable? I have five motions. Also, just going back to our Oversight Hearing, there were several information items that Chairperson Terlaje requested. Have you been able to put that together or is that what this...?

**Administrative Director J. Hattig, III:** I'm currently still putting some of the actions together and we left off... and we didn't finish all of the seven priorities. We left of a that kind of half way through, so, I'm still working on trying to provide those.

**Chairwoman P. Fejeran:** Okay, just prepare that and route it. I don't want to keep Senator Terlaje waiting too long. I want to show that we're on it, we're working on it.

**Administrative Director J. Hattig, III:** Okay.

**Chairwoman P. Fejeran:** Also, just a reminder, the resolution will be ready for signature? Tomorrow?

**Administrative Director J. Hattig, III:** Yeah, tomorrow.

**Chairwoman P. Fejeran:** Just have the staff give me a call and I'll figure out where I am in the day.

**Administrative Director J. Hattig, III:** I'll have it brought to you ma'am.

**Chairwoman P. Fejeran:** Yes, that will great, thank you.

**Administrative Director J. Hattig, III:** Is it ready to be printed out?

**Chairwoman P. Fejeran:** I can come read it. Okay, the motion summary was reviewed and approved on record. There are actually six motions that were made. So, I just need a motion to adjourn.

**Commissioner A. Bordallo:** Motion to adjourn

**Chairwoman P. Fejeran:** Adjourned five forty p.m.

Transcribed by: Tina Tainatongo, Land Agent I: \_\_\_\_\_

Approved by motion in meeting of: \_\_\_\_\_

**Jack Hattig III, Administrative Director:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**G. Pika Fejeran, Chairwoman:** \_\_\_\_\_ **Date:** \_\_\_\_\_



