

**GUAM ANCESTRAL LANDS COMMISSION REGULAR MEETING MINUTES
VIA ZOOM WITH LIVE STREAMING ON YOUTUBE**

March 23, 2022 • 2:08 p.m. to 3:57 p.m.

**Notices were published in the *Guam Daily Post* on Wednesday, March 16, 2022 and
Monday, March 21, 2022**

I. CALL TO ORDER

Chairman Eclavea called the virtual, regular meeting of the Guam Ancestral Lands Commission to order at 2:08 p.m. In compliance with Public Law 24-109, the Guam Ancestral Lands Commission announced the virtual meeting on Wednesday, March 16, 2022 and Monday, March 21, 2022 in the *Guam Daily Post*.

II. ROLL CALL

Executive Director Burch took roll call and stated they had a quorum of 4 for operations.

Commission Members Present

Ronald F. Eclavea, Chairman

Ronald T. Laguana, Vice Chairman

Maria G. Cruz, Secretary/Treasurer

Anita F. Orlino, Commissioner (logged on at approximately 2:20 p.m.)

Jeffrey B. Rios, Commissioner

Absent

Angela M. Camacho, Commissioner (excused)

Louisa F. Wessling, Commissioner (excused)

Management and Staff Present

John T. Burch, Executive Director

Nicolas E. Toft, Legal Counsel, OAG

Catherine T. C. Blas, Administrative Officer

Joey Leon Guerrero, Land Agent II

Andy Mendiola, DOL Land Agent I Trainee

Mara Perez, DOL Administrative Aide Trainee

Also Present

Mary Camacho, Real Property Supervisor, GEDA

Mike Cruz, Project Manager, GEDA

Christina Vasques, Program Coordinator I, GEDA

Andrea Pellacani, Office of Speaker Terlaje

Daniel Swavely for Smithbridge Guam

III. APPROVAL OF MINUTES

A. March 9, 2022 – Summarization

Secretary/Treasurer Cruz stated the March 9, 2022 minutes didn't include the phrase, "subject to corrections per audio recording" in the motion she made under section III, "APPROVAL OF MINUTES". She asked that this be inserted.

Executive Director Burch stated that will be done.

Motion to approve the March 9, 2022 minutes subject to corrections per audio recording made by Secretary/Treasurer Cruz, seconded by Vice Chairman Laguana. Chairman Eclavea called for a vote. Motion carried 4-0.

Commissioner Orlino logged on.

IV. EXECUTIVE DIRECTOR'S REPORT

The following are updates for the Guam Ancestral Lands Commission.

GALC – COAST360 Draft Resolution 2022-004:

One of the Commission's share accounts at Coast360 will be maturing on April 18, 2022. Because of low interest rates and the pending GALC / GEDA Memorandum of Understanding for Investment Services, I am recommending to **close after maturity and open new account for a period of three months with automatic rollover Account 0405 from the *Land Bank Trust Fund in the Trust for Guam Ancestral Lands Commission* inclusive of the principal and all interest earned.** More specifically:

After maturity, close Account 0405 from the Land Bank Trust Fund and deposit One Million Fifty-Five Thousand Eight Hundred Fifty-Three Dollars and Twenty-Nine Cents (\$1,055,853.29) plus all interest earned to "3 Month Jumbo Term Share" with automatic rollover.

Motion in favor of the Director's draft resolution (Draft Resolution 2022-004) made by Vice Chairman Laguana, seconded by Commissioner Rios. Chairman Eclavea called for a vote. Motion carried 5-0.

Bill No. 277-36 (COR):

An Act to add a new Article 2 to chapter 75A of Title 21, Guam Code Annotated, relative to authorizing the Chamorro Land Trust Commission to enter Commercial Submerged Lands Agreements and to be known as the Guam Undersea Access for Homes Act (GUAHA).

Public Law No. 25-45, Section 5 (b) mandates, "Any land acquired by the government by having been declared excess by the U.S. Government, or any agency thereof, after the effective date of this Chapter shall acquire the status of ancestral land and be reserved by the Director of the Department of Land Management for the extinguishment of ancestral land claims. All such lands shall be described, surveyed and mapped, and that information shall be sent to the Guam Ancestral Lands Commission to be recorded in the Excess Lands Registry."

I don't believe this section of law differentiates between submerged land and terrestrial land. If that's the case, then the GALC may have jurisdiction over the

submerged lands in the area where the AT&T submerged cables are located once the property is returned.

The claim of jurisdiction quoted in §75A202, Legislative Intent, of Bill No. 277-36 (COR) cites an informational memo from the Attorney General of Guam that was issued in 1996. This memo does not take into consideration the law that created the GALC in 1999.

The GALC has vested interest in this issue because of our current lease with AT&T and the potential revenues that could be generated that were previously unforeseen, especially with cable companies.

Thank you for the opportunity to present this update. Please let me know if further information is required.

Chairman Eclavea asked if Speaker Terlaje was aware of GALC's concerns with Bill No 277-36 (COR).

Executive Director Burch stated Andrea monitors GALC's board meetings, so the Office of Speaker Terlaje will be aware of their concerns now, if they're not already.

Attorney Toft stated he was familiar with the bill having reviewed it for the CLTC. He said the Director's analysis of the bill was correct in that any land returned would go to GALC rather than CLTC. He added that would probably include any additional submerged land. He stated he didn't know what the ownership status was of that particular submerged land offshore from the AT&T Landing Station. He said there were potentially different scenarios of who would get ownership of this submerged land. He stated he didn't think the Board needed to do anything other than notify Speaker Terlaje of the consequence of the bill she may not have considered.

Executive Director Burch stated that according to the Department of Navy Net Negative Inventory the submerged land offshore from the AT&T Landing Station is listed as Parcel 35, a potential transfer. He said it would fall under the transfer authority of U.S. Public Law 106-504.

Attorney Toft stated that may be something to bring up with Speaker Terlaje. He said the funds from the undersea cable leases would be earmarked for CLTC even though the ownership of the submerged land offshore from the AT&T Landing Station would be under GALC, if there was a future transfer of that land.

Executive Director Burch asked the Board how they wanted to inform the Speaker.

Chairman Eclavea stated they should afford her the courtesy of verbally letting her know of their concerns.

Vice Chairman Laguana stated we should send her a memo as well.

Chairman Eclavea asked Director Burch to write the memo to the Speaker.

Secretary/Treasurer Cruz said that Attorney Toft's legal opinion should be included in the memo.

Attorney Toft stated the memo should say he agreed with Executive Director Burch's assessment that any future return of submerged lands would probably fall under Public Law No. 25-45 instead of Public Law No. 22-18.

V. GEDA Progress Report – Presented by Mike Cruz

Please see attached for the full report.

Other Items

• Farmer's Cooperative Association of Guam Inc.

- GEDA & GALC did not receive submission of 2020 Certified Financial Statements that is due on Mar. 10, 2022.
- FCAG is requesting for a 90-day extension due to reasons of their current tax preparer being fully booked for this tax season and is seeking another. Request was made via email on Mar. 12, 2022 from Mr. Jeffery Kosaka, FCAG Board Member and on behalf of FCAG Board.

Secretary/Treasurer Cruz said they could ask FCAG for their average gross income of the last 3 months while they work on submitting a full financial report. She said it could motivate them to submit a full report.

Chairman Eclavea stated they should first address FCAG's request for a 90-day extension. He asked GEDA for their input.

Mr. Mike Cruz stated the Commission had already given them a 30-day extension. He said during those 30 days it didn't appear that they worked on the report. He said they keep finding reasons to delay the submission of their financials. He suggested the Commission grant another 30-day extension and really emphasize the seriousness of the situation.

Chairman Eclavea asked the Director about the requirement for FCAG to file with the OPA.

Executive Director Burch stated the law mentions FCAG specifically. He said they are required to submit their financial report to the OPA 45 days after their fiscal year. He stated they searched the OPA's website and could not find an audit report from FCAG. He said they were supposed to file one every year. He said he could contact the OPA about the situation.

Chairman Eclavea stated they grant FCAG another 30-day extension to submit their financial report to GALC.

Executive Director Burch stated GEDA should tell FCAG they have another 30 days to submit their audit report. He asked if the Commission needed to take a vote on granting the extension.

Chairman Eclavea asked Mr. Cruz if he needed that.

Mr. Mike Cruz stated he had a sense of what the Commission wanted to tell FCAG, which was to grant them another 30-day extension.

VI. OLD BUSINESS

A. Farmers' Market - Financial & Audit Update

Chairman Eclavea stated this was just covered during GEDA's Progress Report.

B. GEDA MOU - Investment Services Update

Chairman Eclavea asked legal counsel if he had an update on the MOU.

Attorney Toft stated he believed the MOU had been signed. He said he needed to verify that.

C. Smithbridge License Request

Executive Director Burch stated Smithbridge considered Commissioner Wessling's concerns at the previous meeting. He said Smithbridge was now offering \$8,000 to use 2 acres for 3 months to be paid in full; the original offer was \$7,200. He said Smithbridge was now offering to pay a security deposit of \$5,333.33 up front, which is 2-months' rent. He stated Smithbridge agreed to provide basic insurance, which Attorney Toft provided input for. He said the license agreement now states the 2 acres would be used solely for a staging area for licensee's containers, chassis, and trailers. He said the licensee agreed to limit the use of the property to storing and off-loading shipping containers. He said that any other use of the property would be justifiable cause for the licensor to terminate the license. He stated he believed all concerns brought up in the previous meeting had been met.

Secretary/Treasurer Cruz stated the Commission is protected by the language of the short-term license.

Commissioner Rios stated he didn't see any issues with any short-term license agreement to use those 2 acres as long as the license expired before any RFP was awarded.

Commissioner Orlino asked if Smithbridge had any intention of extending the license.

Mr. Daniel Swavely stated they did not. He said they intended for the short-term license to roll over into a long-term lease for the entire acreage, not just for 2 acres.

Chairman Eclavea asked the Director and GEDA if they were advising the Board to approve the license agreement with Smithbridge.

Executive Director Burch stated that was correct.

Commissioner Rios motioned to grant Smithbridge with a short-term lease.

Attorney Toft requested the language be changed to license instead of lease.

Corrected motion to grant Smithbridge a 3-month license to use 2 acres made by Commissioner Rios, seconded by Secretary/Treasurer Cruz. Chairman Eclavea called for a roll call vote, after which he stated the motion passed.

Vice Chairman Laguana approved.

Secretary/Treasurer Cruz approved.

Commissioner Rios approved.

Commissioner Orfino approved.

Chairman Eclavea approved.

D. Executive Director's Annual Evaluation

Vice Chairman Laguana requested they go into Executive Session.

Attorney Toft stated someone would have to make a motion to go into Executive Session.

Motion to go into Executive Session made by Vice Chairman Laguana, seconded by Secretary/Treasurer Cruz. Chairman Eclavea stated they would go into Executive Session.

After the Executive Session, Chairman Eclavea stated they finished Executive Director Burch's evaluation and unanimously gave him a highly satisfactory approval rating. He congratulated the Director on his great review.

Executive Director Burch stated he could only do what he has done because of his outstanding staff. He thanked Joey Leon Guerrero, Cathi Blas, Mara Perez, and Andy Mendiola for their support and loyalty. He stated his success was their success.

The Commission also thanked the staff.

Time was provided for members to discuss an item not on the agenda.

VII. NEW BUSINESS

VIII. PUBLIC COMMENTS

IX. ANNOUNCEMENTS

A. The Commission scheduled the next meeting for April 13, 2022.


X. ADJOURNMENT

A. Chairman Eclavea thanked everyone and adjourned the meeting at 3:57 p.m.

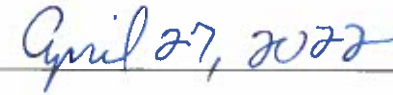
Additional Remarks: The summarization of the GALC Board Meeting Minutes has been approved by the board due to the shortage of GALC staff. Please refer to the Office of Public Accountability's (OPA) website for the GALC Board Meeting Minutes Audio Recording for detailed information.

APPROVED BY:

DATE APPROVED:



Ronald F. Eclavea, Chairman
Guam Ancestral Lands Commission



April 27, 2022

TRANSCRIBED BY:



Mara Perez, Administrative Aide
Guam Ancestral Lands Commission

REVIEWED AND APPROVED BY:



John T. Burch, Executive Director
Guam Ancestral Lands Commission



MEMORANDUM

Date: March 23, 2022
To: Executive Director, Guam Ancestral Lands Commission
From: CEO / Administrator
Subject: GEDA Monthly Progress Report

Hafa Adai!

The following is a progress report on GEDA's efforts to manage Land Bank Trust properties as required by Section 1(i) of the MOU between GEDA and GALC Land Bank Trust:

• **Wettengel Junction : Northern Market, LLC (NM)**

Monthly Payment	Outstanding Balance
\$ 27,854.51	\$1,182,503.14

- Total Deferred Balance (\$1,013,664.68) and Total Interest Balance (\$168,838.46) = Total outstanding balance (1,182,503.14) as of March 2022.
- Last payment made on Feb. 27, 2020. In the amount of \$40,769.63
- Northern Market on Extended 1 year Full Rent Deferral from Nov. 2021 to Oct. 2022.
- GEDA sent a letter to NM on March 08, 2022 outlining detailed specific information required for submission of their quarterly report.

• **Apra Harbor Parcel No. 1 (Commissary Junction): KwikSpace**

Monthly Payment	Outstanding Balance
\$3,949.63	\$ 0

- Tenant is current with its lease rents.

• **Apra Harbor Reservation F-12: Matson**

Monthly Payment	Outstanding Balance
\$ 27,733.00	\$ 0

- Tenant is current with its lease rents.



- **Lot Apra Harbor Reservation F-12-R2: Trans Steel**

Monthly Payment	Outstanding Balance
\$ 500.00	\$10,200.00

- Tenant on a month to month tenancy and payment plan from May 2021 to present.
- Last payment made on Feb. 3, 2022. In the amount of \$600.00

- **Tanguisson Cable Landing Station, Dededo (Lot 10192): AT&T**

Monthly Payment	Outstanding Balance
\$ 22,939.42	\$ 0

- Tenant makes regular monthly payments via EFT at the beginning of every month.
- Tenant is current with its lease rents.

TIYAN PROPERTIES

- **Guam Environmental Protection Agency (GEPA)**

Monthly Payment	Outstanding Balance
\$ 8,000.00	\$ 216,000.00

- Tenant makes regular monthly payments via EFT before the end of the month.
- Last payment made on Mar. 04, 2022

- **DPHSS (WIC)**

Monthly Payment	Outstanding Balance
\$ 8,400.00	\$ 62,699.35

- Invoices from November 2021 – February 2022 totaling \$33,600.00 have been revised and resubmitted for processing to DPHSS/WIC on February 16, 2022. Pending payments soon to be made via EFT from DOA.

Other Items

- **RFP 21-011 – For Lease and Development of Land Bank Trust Property: Lot Apra Harbor Reservations, F-12-1, portion of F-12-2, and F-12-3, Polaris Point, Piti**
- As of 02/24/22, Ongoing lease negotiations between GEDA, GALC and Vendor.



- **Farmer's Cooperative Association of Guam Inc.**
 - GEDA & GALC did not receive submission of 2020 Certified Financial Statements that is due on Mar. 10, 2022
 - FCAG is requesting for a 90 day extension due to reasons of their current tax preparer being fully booked for this tax season and is seeking another. Request was made via email on Mar. 12, 2022 from Mr. Jeffery Kosaka, FCAG Board Member and on behalf of FCAG Board.
- **MOU btw GEDA and GALC – Investment Services**
 - MOU is currently under review, approval and signature with the AG.

Should you have any questions, please contact Tony Arriola at 647-4332. *Si Yu'os Ma'ase'* for your continued support in generating revenues for the beneficiaries of the Trust.

Senseramente,



MELANIE MENDIOLA
CEO/ Administrator