



AHENSAN PRUTEKSION LINA'LA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency

Virtual Board of Director's Meeting

Thursday, August 13, 2020

And Continuance Meeting

Monday, August 20, 2020

Via Google meet platform

MINUTES

- I. **Call to Order:** Chairman Robert Perron called the Board of Director's meeting to order at 4:01 p.m. The following individuals were present during the virtual board meeting via Google meet **Board Members:** Robert Perron-*Chairman*, Florida Sanchez, Ann Roth, Nicholas Pape, Steven Carbullido, Steve Carrera and Nonito Blas **Guam EPA Staff:** Michelle Lastimoza-*Deputy Administrator*, Arlene S Acfalle, Nic Lee, Jesse Cruz, Sabrina Sablan, Kristan Finney, Connie Afilleje, Conchita Taitano, Brian Bearden and Michael O'Mallan. **General Public:** Former Board of Director, Moneka De Oro.
- II. **Approval of Agenda:** Chairman asked that we can add the selection of a Vice Chair under New Business. Agreed upon by Director Carbullido. He also inquired with Deputy Administrator if she will be discussing the RRF transferring to the Zero Waste. Deputy advised that the Administrator had to leave and asked that we table the Administrators report till next week. Chairman asked to include the discussion of RRF to Zero Waste to New Business. Director Roth asked to include the NOV/Stop Sale Order under Old Business. Board Secretary advised it was a NOA (Notice of Appeal) and not a NOV (Notice of Violation) for record purpose. *Director Roth* made a motion to approve the agenda, to include the selection of Vice Chair to New Business and the Notice of Appeal to Old Business, seconded by *Director Pape*. All voted in favor, zero (0) opposed and motion passed.
- III. **Approval of Minutes:** *Director Roth* made a motion to approve the minutes seconded by *Director Pape*. All voted in favor, zero (0) opposed and motion passed.
- IV. **Administrator's Report:** Please refer back to Approval of Agenda where Deputy advised that the Administrator had to leave and asked that we table the Administrators report till next week.
- V. **Old Business:**
 - **Active NOV's**
 - Safe Drinking Water NOV's update (Lin's Hardware, Su & Zheng Corp and Feiyang Construction & Engineering) – Brian updated that they are still trying to figure out how to close out this NOV. He hopes to have an update by next board meeting.
 - Smithbridge – Per Brian, they were able to figure out what we were doing wrong. Water Division has been working with legal council, Kristan, to try and close out the NOV and collect the penalty amounts.
 - Piti failed septic system update – Brian updated again that the property owner left Guam and they are still trying to figure out how to close out the NOV.
 - Contract Watts update – Water Division has been working with legal council, Kristan, to try and close out the NOV and collect the penalty amounts.

- Dusit Thani update – Brian advised that the beach erosion has not been occurring lately, which is good news.
- Sand Castle update – DPW proposed that they will clean out the storm drains which they have been working on to clear out the storm drains of any debris and sediments, per Brian.
- Verona & Old Royal Palm Garage update – Deputy reported that she received updates from Glenn in regards to Royal Palm Garage. Currently there are no progress on this clean up. Glenn is still trying to locate a POC. The new owners are being represented by Cabot Mantanona, LLC. Deputy asked Kristan if she advised Glenn to issue an NOV to the new owners. Per Kristan she does not recall the full conversation and would need time to go through it again. She was not prepared to speak on this issue. Update on Verona was also provided by the Deputy. Owner is still in Hong Kong and no update on this clean up.
- GWA NOVs (UST) update – Conchita advised this was Issued on February 5, 2020. GWA paid the penalty amount of \$14,692 within fifteen (15) days of the issuance of enforcement action. GWA responded with corrective actions as well.
- Settlement Agreement with UOG (NOV UST 18-00) – Mike O’Mallan advised they have been meeting with UOG representatives virtually and over the phone. UOG provided a SEP proposal however, there is no nexus between the violation and the SEP. Per guidance from the Administrator he asked if UOG can find a way to incorporate any part of Chapter 76 which is to restore the regulated substances underground and above ground. This is targeted to farmers to apply pesticides. We are still working with UOG and hopefully we can move forward with the SEP.
- Underground Storage Tank Rules and Regulations Update – Per Conchita in regards to the UST, this was sent to the OAG. Kristan updated that the revised version was submitted to the OAG and it was received. It should be on its way through their system and the AG would have to give his final approval.
- Plastic Bag Initiative update – Per Conchita there was a public hearing and our agency participated. The written testimony was prepared by Nic. Nic advised there was a virtual hearing on August 4th in regards to the revision of the Plastic Bag Initiative. Some of the things conveyed were related to the fines to be levied on the establishments which were caught in violation. We requested that the fines go to the Solid Waste Fund as opposed to the Recycling Revolving Funds so that we can use that funding to augment the administrative cost that would be associated with enforcement. Another thing we talked about was consideration for either the use of paper bags or reusable bags only to stop distribution at the point of sale. Senator Lee office will keep us informed on this issue. Chairman asked if comment period is still open. Nic advised he would need to verify. Per Nic some of the stakeholders spoke about wanting to do their part to reduce waste and illegal dumping. Former Board Member Moneka said there are options for reusable bags but it would need to be purchased. She also mentioned how she would like to see the agency do a more public campaign in regards to this initiative.
- Code of Conduct or Ethics training for the Board of Directors update – Kristan advised we were trying to get something scheduled with the OAG but they have been swamped. Chairman advised we may not be able to get 100% attendance. Kristan advised that hopefully the training can be recorded for whoever is not able to participate.

Board Secretary inquired on the phone number that joined the virtual meeting for record purpose. Chairman asked if they can state their name. Per Conchita it looked like it was Sabrina Cruz-Sablan

- NOA/ Case for R&R Distributors update: Chairman updated that our Administrative Hearing Officer, Happy Rons, AAG, is still off-island and had requested for an extension or delay from both council’s Attorney Randy Cunliffe and Kristan Finney. This has been agreed upon by both parties. So we are awaiting a hearing date.

VI. New Business:

- RRF to ZERO WASTE FUND: Deputy advised that the Administrator was the one who testified at the hearing on August 4th. She advised she was still in quarantine. Chairman advised that GSWA through Andrew Gayle, made an appeal to assist with their recycling. He also mentioned that UOG through Austin Shelton made an appeal for \$500K for the Center for Island Sustainability. Mr. Shelton also went through the legislature and this request is now included as a rider in the budget bill. Deputy advised UOG might be trying to obtain a Sea Grant in the amount of \$20M. Sabrina chimed in that she personally does not support the request of \$500K and how this request will negatively impact our ability to roll out the

agency's initiatives. Ms. Moneka agreed that the process on how Mr. Shelton went about this was problematic and he should have reached out to the agency to collaborate how the funds were allocated. The Deputy did clarify that Mr. Shelton did approach the Administrator and herself prior to the Island Sustainability conference. At such time they did inform Mr. Shelton what was allowable within the statute and what we are authorized to fund which is the MCOG and the incentives. The number that Mr. Shelton threw out to the Governor, at the Island Sustainability conference, was \$300K and the Governor stated "she will find that money", said the Deputy.

Director Carrera asked for clarification that when we approved the Rules & Regs for the RRF, this was to stop individuals or entities from tapping into this account/fund. Chairman advised this is correct however the legislature can trump it by making new legislation.

Sabrina suggested we come up with a position on the Board level. Chairman inquired if the Board would like to prepare a position statement opposing this request. Director Ann stated that the Chairman should prepare the position statement letter to be sent to the committee to oppose the transfer of \$500K to UOG. Director Carbullido stated there were programs identified already and he agrees that going through the budget process is disagreeable. Director Sanchez stated she agrees the opposition letter since we have already identified how the RRF will be spent. Director Blas has nothing to add to this matter. Director Carrera agrees with opposition letter. Director Pape's thoughts are that we are opposing the process and procedure and what is the incentive for other entities going forward. He also agrees with opposition letter. Director Roth made a motion for the Chairman to prepare the opposition letter which incorporates all the Board of Directors comments. Director Pape inquired if we can have a special meeting to go over the letter once the Chairman is done. Kristan stated we do not have to have a special meeting. We can have a continuance meeting to discuss this matter. Chairman agreed to the continuance meeting. Continuance meeting schedule for Monday, August 17th at 4pm via Google meet platform.

- Amendments to Chapter 45 to allow the Board of Directors of Guam EPA to establish fees for the agency. – Kristan advised there is a provision in Chapter 45 for the Board to adopt rules and regulations. There are a bunch of different fees that the agency has identified it could charge, but we are not charging at this time. We are trying to propose amendments to allow the board to adopt a fee for all the different chapters. Also to adopt a process where the board has a hearing with public comments but not necessarily the exact steps on the Administrative Adjudication Act but with the same protections. Brian echoed Kristan's statement and added that the main advantage by doing it this way is we can amend all the chapters all at once instead of one by one. Brian also mentioned this was prompted by Administrators direction to help try and update our regulations where we can be self-supporting and not rely on federal funds. Director Roth moved to approve the Amendments to Chapter 45 seconded by Director Carrera. All in favor and motion approved.

Board Secretary inquired if the Board was going to vote on the Vice Chairperson. Per Chairman we can vote on this on the continuance meeting.

Director Blas inquired on the relation between Guam EPA and USEPA in regards to the air quality suite. Conchita did not want to comment too much on this issue. She did mention GPA has a stipulated order in regards to the consent decree and she leaves that between GPA and USEPA. Kristan concurred with Conchita's comment and added that as far as Guam is concerned we are enforcing the air quality laws.

Meeting was recessed till Monday, August 17th at 4pm.


Arlene S Acfalle
Board Secretary

Continuance Meeting
August 17, 2020
4:05pm

- I. **Call to Order:** Chairman Robert Perron called the Board of Director's meeting to order at 4:05 p.m. via the Google meet platform. (Roll call taken for record) The following individuals were present during the virtual board meeting via Google meet **Board Members:** Robert Perron-*Chairman*, Florida Sanchez, Ann Roth, Nicholas Pape, Steven Carbullido, and Nonito Blas **Guam EPA Staff:** Michelle Lastimoza- *Deputy Administrator*, Arlene S Acfalle, Nic Lee, Sabrina Cruz-Sablan, Kristan Finney, Connie Afleje, and Conchita Taitano

- II. **First order of Business from original meeting.**
 - Voting of Vice Chairperson – Chairman advised the Vice-Chairperson would have to sign the Opposition Letter due to he is recusing himself due to his business as a recycler. Chairman advised he consolidated all the opinions of the board members in regards to the budget bill.
Chairman inquired if there any nominations for the position of Vice Chair or if anyone would like to serve in that capacity. Director Roth inquired if anyone would like to serve and asked Director Carbullido if he would like to accept position, Director Carbullido declined. Chairman asked if Director Roth would like to accept position. Director Roth stated she will accept if no other board member would like to serve as Vice Chairperson. Director Pape added it should be someone who has more tenure, experience and knowledge of the Board. Chairman Perron nominated Director Roth, seconded by Director Sanchez. All in favor and motion passed.

 - Opposition letter: Newly appointed Vice Chairman Roth inquired if there are any questions? Vice Chair Roth stated she has a comment. She would like to add to the end of the letter, Furthermore, the withdrawal of the \$500K may impact future programs indicated in PL 35-37 (such as Integrated Solid Waste Management and The Guam Beverage Container). Director Pape indicated it is a good suggestion and also suggested that we should spell out the RRF, Revolving Recycling Fund. Motion made by Director Pape to send letter with corrections, second by Director Blas. All in favor and motion approved. Board Secretary to prepare letter with corrections and submit to Vice Chair Roth for approval and signature. Chairman asked if the letter can be emailed due to the Legislature is closed in light of PCOR1 COVID Pandemic. GEPA Legal Council Kristan advised it can be emailed. Chairman advised to email letter to Senator Joe San Agustin office, Committee Chair.

- III. **New Meeting Date/ Adjournment:** Next meeting set for September 17, 2020 at 4pm via Google meet platform. *Vice Chair Roth* made motion to adjourn meeting and seconded by *Director Pape*. All voted in favor and meeting adjourned at 4:20 p.m.


Arlene S Acfalle
Board Secretary