



AHENSIAN PRUTEKSION LINATA GUÅHAN

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WALTER S. LEON GUERRERO, ADMINISTRATOR

**Guam Environmental Protection Agency
Virtual Board of Director's Meeting
Thursday, December 17, 2020
Via Google meet platform**

MINUTES

- I. **Call to Order:** Chairman Robert Perron called the Board of Director's meeting to order at 4:05 p.m. The following individuals were present during the virtual board meeting via Google meet **Board Members:** Robert Perron-*Chairman*, Ann Roth-*Vice Chairwoman*, Flori Sanchez, Steve Hollister, Steven Carbullido, Nonito Blas and Steve Carrera **Guam EPA Staff:** Walter Leon Guerrero- *Administrator* Michelle Lastimoza-*Deputy Administrator*, Arlene Acfalle, Nic Lee, Sabrina Sablan, Kristan Finney, Connie Afleje, Brian Bearden and Roland Gutierrez. **General Public:** Tyler Matanane
- II. **Approval of Agenda:** Board Secretary asked the Chairman if he wanted to include the Open Government Law discussion, requested by Kristan, under New Business. Director Roth made a motion to approve the agenda to include the Open Government law discussion, seconded by Director Hollister. All in favor, zero (0) opposed and motion passed.
- III. **Approval of Minutes:** Vice Chairwoman Roth requested to change the spelling on the word ducts to dust under Old Business (Korando). Director Roth moved to approve the minutes with the corrections second by Director Carrera. All in favor, zero (0) opposed and motion passed.
- IV. **Administrator's Report:** Deputy Lastimoza reported on behalf of the Administrator. Administrator would like to greet everyone with a Merry Christmas and Kudos to our Guam EPA team for their outstanding work that everyone has done and contributed in the face of adversity during the pandemic. Administrator would also like to congratulate the current Administration for initiating the Covid 19 vaccinations and helping us move forward through this pandemic. Deputy Lastimoza also reported that the RRF/MCOG MOU has been approved by MCOG and BBMR and is currently at the OAG for their review and approval. Administrator also requesting for Dr. Austin Shelton to attend the board meeting to explain UOG plan to use the funds from the RRF. Administrator also had a call this morning regarding the RRF, stimulus initiative and possible change of shipping ports which may have an adverse effect on the market. We are currently expanding to shift our paper permitting process to an electronic data system. Along with what Guam EPA is doing in house with USEPA's contractor, Innovate, the Department of Revenue and Taxation is also initiating their own form of electronic permitting using some Cares Act funding. We are hoping the two platforms are able to read each other and we will be able to use that electronic permitting system on a permanent basis, said Deputy Lastimoza. This would allow for the nine multiple programs that currently may have oversight over our permit application to then be able to review that process concurrently. We have had many criticism about Guam EPA being the hold up in this permitting process and that is because Guam EPA has nine programs and regulations that go along with that oversight. We are hoping this electronic permitting system will speed up the process for our agency. Deputy also reported that Brian Chief Engineer of water division, is still pulling double duty as our Chief Engineer and as liaison to the federal government during this pandemic. Kudos to Brian for wearing two hats, both locally and federally.

Board Secretary, Arlene, chimed in to inform the board members that Dr. Austin Shelton advised he will not be able to participate in today's board meeting. Chairman advised Dr. Shelton emailed a response to the letter that

was sent by Guam EPA Board and he would work on the priorities and present it to the Board within the next two months.

V. Old Business

Active NOV's

➤ WATER DIVISION

- Safe Drinking Water NOV's update / Lead Ban Act (Lin's Hardware, Su & Zheng Corp and Feiyang Construction & Engineering) **Brian advised he will provide report in general for the NOV's due to legality reasons** Brian advised the inspectors were sent out to follow up on the violation and found out one of the stores is still selling the non-certified products and the owner is defying the order. We are trying to follow up with our legal counsel and the Administrator on what needs to be done to take further action. The two other stores were in compliance and we need to close them out.
- Smithbridge update- Brian is still working with legal counsel on getting the draft letter done.
- Piti failed septic system update- Brian advised Staff is scheduled to go out for inspection.
- Contract Watts update- Brian advised draft settlement is still being debated and will have an update on that soon.
- Dusit Thani update- We are waiting on Dusit Thani to submit their plan to agency.
- Sand Castle update- We are waiting on Sand Castle to submit their plan as well, dependent on DPW. Since that time the DPW Chief Engineer has left and causing delay

➤ Solid Waste Management Program

- Verona & Old Royal Palm Garage update – Roland advised that based on last meeting Glenn is still trying to locate the new owner. Administrator advised that Glenn had asked for assistance from Rev & Tax to look through their database to contact the company that is now listed as the owner. Information was received by Rev & Tax however we are still trying to locate the company that represents the owner. We are still having difficulty trying to locate the owner. Once we locate the owner, we can move forward stated the Administrator.

➤ Air Pollution program

- Korando – Roland advised we are still waiting on them to submit their dust control plan. Korando wants to submit the plan and continue to operate and later will submit the opposition to our requirement which is basically their calculation showing they are under the limit for that significant source. Korando reached out last week and submitted a plan but it was not complete, per Roland. Chairman inquired if they are still operating and Roland advised they are not allowed to operate due to they do not have water so they are not able to provide dust control which is the chief complaint.

➤ Underground Storage Tank (HWMP) - Roland advised he spoke to Vince this morning and it's still with the legislature so its status quo at this time.

➤ Findings of Failure to Submit State Implementation Plans (SIP) for Attainment of the 2010 1-Hour Primary Sulfur Dioxide (SO₂) National Ambient Air Quality – Roland advised we are waiting on one more component which is the modeling of GPA. Roland spoke to Sylvia at GPA and they are working with the company who did the initial modeling to remodel to operate at peak capacity versus average capacity. Once this is done, everything will be in place and we should be able to move on from there.

➤ Performance Evaluation for Deputy Administrator and Board Secretary update- Chairman stated the evaluation for the Deputy is not under the Board's purview, but more so the Administrator. He also stated that the Deputy does not report to the Board. He mentioned that the Administrator submitted her performance evaluation as courtesy. Administrator chimed in and stated that the Board is not required to conduct a performance evaluation but he did ask that the Board review her evaluation so that she has the endorsement from the Board. Chairman asked the board members if they have any questions, as he is in concurrence with Administrators comments. No questions from remaining board members. ***Kristan clarified that this position is directly under the board who sets the qualifications, the duties and the tenure of the Deputy administrator***

-Board Secretary: Chairman advised the Board does have components on Board Secretary's evaluation. Vice Chairwoman inquired on review date which is from April 2019 to October 31, 2020. So the review should be an 18 month review and not a 12 month review. Administrator stated he will verify Board Secretary's start date. Chairman advised of his comments that he appreciates the board secretary's efforts during some trying times personally and with Covid, she has been instrumental in getting information out to the board and making sure we are in the loop. Chairman also stated that if there is any pay raises to be given, the board secretary should be in line for one to commensurate with her contributions.

➤ MCOG (RRF PL 35-99) MOU update- Sabrina reiterated the Administrators update that the document is with OAG for their review. She also added that MCOG Director, Angel Sablan, committed to close out FY20 and have all their

data available to Guam EPA by December 11, 2020, but we have yet to receive it. Vice-Chairwoman Roth asked what happens after it is signed by the AG's office. Sabrina advised it goes to the Governor for her review and signature.

➤ RRF Financial spreadsheet update – Connie advised she used the same spreadsheet that was provided by Director Carbullido. With assistance from Director Sanchez she was able to update the form. The list stays the same and under the expenditures it shows only the salaries and benefits. Per Connie, once we start paying out on the invoices for the outreach and zero waste and of course the stimulus, we will start to see the numbers change. On the first page of the financials you will see the numbers of all the projects that were approved by the board and the dollar amounts as well. Director Carbullido advised that he sent in an updated spreadsheet to show balances on the mother account. He requested that going forward we have this balance included as well. Connie advised she did not receive the updated spreadsheet but did acknowledge the request. Chairman inquired with Connie the accuracy of the appropriated amount showing which is \$2.365 million and all projects that has been committed is \$1.460 million. Connie advised that she did not encumber the full \$1.3Million that the legislature had approved for the MCOG. She only encumbered the \$500K that was approved by Board. Once the MCOG request for additional funding, with approval from the Board, we will see that number rise and figures change. Administrator asked Board Chairman if the Board prefers to see the draw down to MCOG. Director Carbullido added that we are on the right tract as far as the spreadsheet is concerned but ideally he would want to see how much the legislature has or the Guam EPA board voted and approved on. The amounts would show the \$1.3M plus the \$500K for the stimulus program and how much has not been budgeted and to also include information on the mother account so the Board would know how much is left for additional programs in the future such as Solid Waste Management and the Guam Beverage Container program. Chairman stated that the balance on the bottom line shows \$904K of which \$800K will be given to the MCOG. Per Connie she did not put the \$1.3Mil, only because the Board approved the initial drawdown of \$500K, but the Board has up to \$1.3Mil based on the budget law. It shows what has been encumbered already against the funds that have been accounted for. Chairman agreed, however once we include the \$800K it would give us a balance of \$100K and the salaries and benefits figure will go up. Per Connie, on the second sheet of the spreadsheet she has already accounted for the salaries and benefits for the whole year. So the only number that will change is the MCOG leaving a balance of \$100K not including the funds in the mother account. Chairman inquired if the funds in the mother account would need to be appropriated by the legislature. Connie advised that the mother account does not need to be appropriated and can be used immediately. Deputy Lastimoza asked for clarification on the worksheet with the tab RRF, it shows the non-lapsing mother account. Connie clarified that rows 1 through 10 is the annual appropriation account from the legislature and the bottom is the non-lapsing mother account. Vice Chairwoman Roth inquired if we are able to spend funds in the mother account or not unless the regulations are in place. Director Carbullido asked if the mother account can be used for the MCOG and the stimulus since they have regulations and that other programs cannot be funded until they have approved regulations in place. Sabrina and Administrator advised that is correct. Vice Chairman Roth asked when did the Board approve the stimulus of \$500K and what is the hold up. Director Carbullido advised it was during March 2020 board meeting. Administrator explained the \$500K for the stimulus requires a sliding scale to meet the recycle market. In the past every recycle commodity was given the same value. So the sliding scale will safely indicate which commodities don't need as much money versus other commodities. Our contractor, Jacobs, has been tasked to prepare the sliding scale. Roland advised, per Sabrina this was submitted a couple months ago. Sabrina chimed in and advised that the contractor, Jacobs, completed the stimulus sliding scale in April of 2019. They also provided us some tools to get the current market prices on Guam. We need to find out the cost of the material and the cost of shipping. The agency has not implemented a stimulus program, although the board has approved funding. Currently we are just doing the MCOG program and all the contractors and recyclers that are on the Mayors Counsel will also be participants of the stimulus. In the past it was either or. Either we do the clean up or we do the stimulus. Administrator advised he has a conference call this morning with Matson and they indicated with China closing their doors for recycled goods and other shipping commodities there will be a shift in cost to the shipping, which may bring economic ramifications to our island.

Chairman advised that the issue was China went through the national sword and all other programs with the goal of stopping outside recyclable materials from coming into China effective January 2021. The other issue that is creating a problem is that Matson trans-ships through Shanghai. So they bring the material to Shanghai and load it to a different boat and send it on a feeder line to other destinations like Korea. China is not allowing that as well. So it can either go to Taiwan or Japan. Matson is trying to workout trans-shipment arrangements to those locations, because they lost the Shanghai trans-shipment hub. This has created a big problem, said Chairman. Chairman contacted Walter regarding the shredded tires advising they have 20 containers sitting due to Matson

has not figured a way to get them to Korea. The Korean buyers are also having problems due to the National Government changed some of their laws as well. Per Chairman two things are going to happen. Either we shut the door and not accept tires anymore because we have no place to put them. If all else fails, it may need to go to the landfill which is a last resort, but it's something that may have to happen in case the whole market shuts down. Chairman stated that as a business man it costs a lot more to put it at Layon then to send it off island. Placing it at Layon will be last resort but they may have to if there is no other alternative. Director Carbullido asked if we can use the shredded tires on construction projects for a pipe trench for instance. Administrator stated it calls for a specific type of processing of the tires which we don't currently do on Guam. Chairman advised the engineer would need to design it into the plan, based on historical uses of the material. Chairman Blas asked if we can close out the original topic of the stimulus and save this discussion for another meeting. Administrator stated that this is part of the Segway in regards to the tire issue and the shipping line issue which may cost more to move things of our island. If this happens it may require these companies to obtain some of the stimulus funds.

- UOG Letter for expenditure plan update. – Chairman stated he signed the letter that was sent to UOG requested that they send us their expenditure plan prior to spending the funds. UOG has responded that they will have something to us in the next 30 to 60 days.

VI. **New Business:**

- Open Government Law Presentation – Kristan read a portion of 5GA Chapter 8 which does several things. She stated that what this law does it that it set requirements for public notice of meetings and opportunity for public attendance at meetings. At this time this is done differently based on EO due to pandemic, however there still needs to be public notice and opportunity for the public to participate. There is also no requirement that anyone from the public who attends a meeting has to identify themselves or that they need to participate. The open government law also sets requirements for special meetings, the minutes to be made available to the Legislature and the OPA. It also states that the Board is not able to take any action outside of a public meeting. The Board may also not deliberate leading to any action outside of an official meeting.

Director Blas inquired if FOIA requests needed to be sent to the Board as a whole and not individually. Kristan advised that is a different chapter. Kristan stated that the purpose of FOIA is that all documents are public documents. When there is a FOIA request to the agency, the agency should respond to it. If it pertains to anything involving the Board, it should be presented to the entire Board and responded by the whole agency.

Chairman advised that all FOIA requests gets forwarded to the agency's PIO. Nic acknowledged and advised that FOA requests get forwarded to him and it gets disseminated to the various programs depending on the nature of the request. If one does come up, specifically for the board he will include the Board on it.

- I. **New Meeting Date/ Adjournment:** Next meeting set for January 21, 2021 at 4pm via Google meet platform. *Director Carbullido made motion to adjourn meeting and seconded by Director Hollister. All voted in favor, zero (0) opposed and meeting adjourned at 5:09pm.*



Arlene S Acfalle
Board Secretary