



AHENSIAN PRUTEKSION LINA'LA GUĀHAN
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, September 17, 2020
Via Google meet platform

MINUTES

- I. **Call to Order:** Chairman Robert Perron called the Board of Director's meeting to order at 4:03 p.m. The following individuals were present during the virtual board meeting via Google meet **Board Members:** Robert Perron-*Chairman*, Florida Sanchez, Ann Roth-*Vice Chairwoman*, Nicholas Pape, Steven Carbullido, Steve Carrera and Nonito Blas **Guam EPA Staff:** Walter Leon Guerrero- *Administrator* Michelle Lastimoza-*Deputy Administrator*, Nic Lee, Jesse Cruz, Sabrina Sablan, Kristan Finney, Connie Afilleje, Conchita Taitano, Brian Bearden, Michael O'Mallan and Betwin Alokoa **General Public:** Hearing Officer Happy Rons, Steven Hollister
- II. **Approval of Agenda:** Vice Chairwoman Roth made a motion to approve agenda, second by Director Pape. All in favor, zero (0) opposed and motion passed.
- III. **Approval of Minutes:** Vice Chairwoman *Roth* made a correction on Page 1, under old business- the question was who was doing wrong or should it be what Smithbridge was doing wrong. Brian clarified it was Smithbridge so wording should be changed to they not we. Director Pape moved to approve change, second by Director Carrera. All voted in favor, zero (0) opposed and motion passed.
- IV. **Administrator's Report:** None Provided
- V. **Old Business:**
 - **Recycling Revolving Fund (RRF)**
Connie Afilleje – ASO provided a breakdown for the RRF based on what Steve Guerrero from the legislature stated. Revenue for FY 2020 was \$2,525,010.60 and the balance on the current FY20 account is \$1,905,647.65 which brings a total to \$4,430,658.25 for FY2021. *Chairman Perron* mentioned there were so many numbers floating around and the Senators didn't have a good handle on what the number really was. *Vice Chair Roth* mentioned that the Legislature passed an amendment after a three day discussion that UOG Center for Sustainability's (G3) will receive \$500K from the RRF despite the opposition of the board and the letter sent to the Legislature. Senator Regine Lee passed an amendment appropriating \$1.3MI to the Mayors Council of Guam (MCOG) for the coming Fiscal Year (2021) out of the RRF fund. The board had already appropriated \$900K to the MCOG back in March of 2020 which Senator Lee raised it to \$1.3Mil. There was discussion on whether the board needs to go back to clarify that the \$900k that they voted on in March 2020 for the MCOG for FY2021 is not in addition to the \$1.3Mil. As for UOG, they were approved for the \$500k out of the RRF fund and they have to submit a plan to the Guam EPA Board for approval. Chairman Perron agreed that what was passed has to go through the Board and the responsible individuals need to provide a plan on how the funds are to be spent and they must be in line with the Rules and Regulations of the RRF. It was noted that G3 had a list of things in the past on how they wanted to spend the funds and it was very broad. The recent budget law provides transparency and more input from the board to ensure funds are in line with the Rules and Regulations of the RRF. Administrator Leon Guerrero indicated that it is now part of the budget and that he is in talks with Legal Counsel Kristan on what we have to do as far as agreements with the MCOG and UOG and that both items need to be approved by the board. Additionally,

the MCOG has to abide by the Memorandum of Understanding. Chairman Perron thanked the Vice Chairwoman Roth for her hard work in representing the Board at the Legislature.

- VI. **New Meeting Date/ Adjournment:** Next meeting was set for October 15, 2020 at 4pm via Google meet platform. *Director Carrara* made motion to adjourn meeting and seconded by *Director Sanchez*. All voted in favor and regular meeting adjourned at 4:18 p.m.

NEW BUSINESS:

- **Contested Evidentiary Hearing: Appeal of EPA Stop-Sale and removal From Sale Orders on SDS Blockers, in the case of R&R Distributors, Inc., Petitioner v. Guam Environmental Protection Agency, Respondent, GEPA Case No. 2020-1** Attorney Happy Ron's requested that each attorney acknowledge their presence and who they are representing- Kristan Finney represented Guam EPA, Attorney Cunliffe (representing the petitioners) was not present. Hearing Officer Rons' noted that one of the Board members (Director Carbullido) would like to recuse himself from hearing this matter. Director Carbullido stated that due to his relationship and long history with petitioners duly authorized representative's family, he would like to recuse himself from this case as he does not believe that he can be impartial in this case. Hearing Officer Happy Ron's advised Chairman Perron that under the statute, board members may only recuse themselves if there will still be a remaining quorum present after such recusal. Based on the roll call there will still a quorum if Director Carbullido recuses himself. Chairman Perron agreed. Hearing Officer Rons requested if any of the board members or Attorney Finney have any objection to Director Carbullido recusing himself from this matter. Attorney Finney and all board members had no objections Due to no objections from all parties, Hearing Officer Rons advised Director Carbullido that his request to recuse himself was granted (Director Carbullido left the meeting) and that there will still be quorum present to move forward with this hearing. Hearing Officer Rons advised the board that this matter was set for a contested evidentiary hearing this afternoon. Over the past week the parties through their council, AAG Finney and Attorney Cunliffe, have submitted a stipulation and order for dismissal without prejudice. I have no objection to the entry of such an order and signed off on the order subject to and conditioned upon the board members agreement to go ahead and enter that order. Each board member should have received a copy of the order of ratification ahead of time in your board packet. Hearing Officer Rons opened the matter to Chairman Perron for discussion or deliberation amongst the board member and then a vote on the ratification of the order of dismissal. Chairman Perron asked the board members if there is any questions on the dismissal request by both parties. Vice Chairwoman Roth questioned as to what this meant. Do we discuss this at a later date? Hearing Officer Rons responded that once the case is dismissed without prejudice the parties or Guam EPA could move to bring the action again in the future as long as it was within the statute of limitations or there was new evidence after the statute of limitation. Hearing Officer Ron's continued that you can have an order with prejudice, meaning the case can never be brought again or without prejudice, meaning it could be as long as it's within the statute of limitations or a new action occurred triggering a new statute of limitation. Chairman Perron wanted to know if the board needed to know the reason for dismissal or just the fact that it's being dismissed. Hearing Officer Ron stated it is very common in both Administrative Hearings and Court cases for the parties to work amongst themselves and decide how to dismiss the case. Chairman Perron asked the board members if there were any other questions and if none they should go on and vote. Director Carrera made the motion to vote for the Order of Ratification and Stipulation in order for dismissal without prejudice, Vice Chairwoman Roth second the motion.

Vice Chairwoman, Ann Roth – Yes

Director Steve Carrera – Yes

Chairman, Robert Perron – Yes

Director Flori Sanchez–Yes

Director Nick Pape – Yes

Director Nonito Blas- Yes

Since all members have voted each of them would need to sign the form and resubmit to Hearing Officer Happy Ron's and keep for file.

Special Hearing Adjournment: 4:30p.m.


Arlene S Acfalle
Board Secretary