



Chamorro Land Trust Commission

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Commission Members

Delfin R. Damian, Jr.
Chairman

Annie R. Perez
Commissioner

David J. Matanane
Commissioner

Oscar A. Calvo
Commissioner

REGULAR BOARD MEETING AGENDA Guam Ancestral Lands Commission Conference Room, Anigua January 4, 2006; 4pm

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES (December 1, 2005)
- III. OLD BUSINESS
 - A. Draft RFPs - Discussion
 1. Legal Counsel
 2. Ypao Point Development
 - B. Marilyn Borja - Status
 - C. Survey Requests - Status
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- IV. NEW BUSINESS
 - Request by PALP for Assistance
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 - B. Website IAW P.L. 28-57
Advisory – Status Report
 - C. Revenues and Expenses for November & December 2005
- VI. PUBLIC COMMENTS
- VII. EXECUTIVE SESSION
- VIII. NEXT MEETING DATE
- IX. ADJOURNMENT



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(Kumision Inangokkon Tano' Chamoru)

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COMMISSION MEETING MINUTES Guam Ancestral Lands Commission Conference Room, Anigua January 4, 2006

I. CALL TO ORDER

Meeting was called to order at 4:20pm by Chairman Delfin Damian. Present were Commissioner Annie Perez, Commissioner David Matanane, Commissioner Oscar Calvo, Legal Counsel Charles Troutman and Administrative Director Thomas Elliott.

Before proceeding with the meeting Chairman Damian informed the Commission that the agenda is amended to include a request by Department of Mental Health which will be discussed under New Business.

II. APPROVAL OF MINUTES (December 1, 2005)

Commissioner Matanane moved to approve the minutes of December 1, 2005 subject to corrections. Commissioner Calvo seconded the motion. There were no objections, **MOTION PASSED.**

III. OLD BUSINESS

A. Draft RFPs – Discussion

1. Legal Counsel

The Administrative Director commented that at the last meeting on December 1, 2005 he had submitted some draft RFPs for the Commission's review. One of them being for legal counsel and the other for the Ypao Point Development. At the last minute at the last meeting, the Office of the Attorney General presented to the Commission a proposed memorandum of understanding that outlines the responsibilities of both the Commission and the Attorney General's office in providing services of legal counsel. I call to your attention a part of the memorandum of understanding that speaks to the responsibilities of the assistant AG who would be assigned to our agency. The section that the Director called the Commission's attention to is the section that indicates that the assistant attorney general will be providing legal services to the Commission, however, there is nothing to prevent them from also conducting legal services within that has nothing to do with the Chamorro Land Trust Commission as well. The Director believes that this may not necessarily be a problem. The amount that we agree upon for compensation for the services does not exceed or is at a reasonable level that will give us a reasonable return on our investment. If

we are to pay full salary for this individual then I believe that would not be an equitable provision of legal services for this agency.

The Director called the Commission's attention to a section under the recitals that states "*Whereas, the AG's purpose is entering into this MOU is to augment the number of attorneys in the Office of the Attorney General; therefore this agreement shall not go into effect until another civil litigator joins the staff of the Solicitors Division, Office of the Attorney General, after which time, the full time duties of the assigned AAG shall continue to include work unrelated to legal services required by the Agency which may be assigned the AAG by the Deputy.*" There is an assurance in this MOU that the work will be done for the agency however they are also requiring that this assistant attorney general also conduct work unrelated to our agency and I assumed be compensated for that as well.

Chairman Damian commented that the Commission would need to clarify that the identification of the assistant attorney general will come from the Attorney General's office and not from the Commission.

Attorney Troutman commented that he has nothing to do with the MOU and that it is strictly between the AG and the agency.

Chairman Damian commented that the Commission can either go with this MOU or we can send out an RFP to get our own legal counsel. The Chairman stated that the Commission needs to take a vote on that today unless the Commission members would like more time on it.

Commissioner Calvo commented that he thinks the Commission should proceed with the RFP. Commissioner Calvo commented with all due respect to Mr. Troutman that he is here today and has no knowledge of the MOU. Commissioner Calvo inquired from Mr. Troutman on what is his role here as the AG's representation.

Attorney Troutman commented that he was actually called that there was a meeting today and had two matters that he had been dealing with the Commission that is on the agenda. All MOUs in the office regardless of who does the work is negotiated strictly between the AG and the agency and drafted by one of the other attorneys. The AG has chosen not to discuss it.

Commissioner Calvo commented that the problem that has been a huddle with this Commission is that the AG sends you here for representation and then when we task you it never comes back because the AG oversees the whole sight and we really don't have the true answers of where you are going to go from here.

Attorney Troutman commented that it's because he doesn't know. Attorney Troutman commented that the AG is under the impression that the Commission really does not want him to be the attorney.

Commissioner Calvo commented that it is not that the Commission doesn't want him but it is just that we have been sitting with a lot of documents and answers that we need and its gone through over a year and there are some legal matters that we need take to and the last time he was here he assured us that he will be up front with anything that we want. For now he had sent you here and you are telling us that you actually can't take any affirmative action.

Attorney Troutman commented not on the MOU.

Chairman Damian commented that Mr. Troutman is here relative to providing input on Ypao Point as well as other issues that we had been requesting for legal advice.

Commissioner Matanane inquired on who prepared the MOU and did the Commission have legal guidance on it.

The Administrative Director commented that the MOU came directly from the Attorney General's office.

Commissioner Perez inquired if we have the assurance that once this MOU is signed that representation from the legal counsel will be here every time we have a meeting. This is the issue that we are all are bringing up because if we hire our own attorney then we make it a point that that attorney represents us every time we have a meeting because we are paying that person.

Chairman Damian commented that if that if the pleasure of the Commission is to enter into an agreement with the assistant attorney general then certainly we can add addendums to the MOU requiring that legal counsel be present at every meeting.

Commissioner Calvo commented that if the AG goes that route and being a participant here and we do have some legal matters that it is not a drag on issue. My biggest concern is for us to get an answer.

Commissioner Matanane commented that on number 4 under Consideration of the MOU there is no figure indicated and suggested that the Commission hold off on it and take a closer look at the MOU.

Commissioner Perez concurred with Commissioner Matanane.

Chairman Damian commented that the Commission will delay any action on the RFP and the MOU until the Commission reviews it further for the next meeting.

Going back to Commissioner Matanane's concern on the amount of the salary of legal counsel, Chairman Damian commented that there is a standard figure on what legal representation for each agency is and it is also negotiable.

Commissioner Matanane also commented that the MOU does not identify the specific attorney to represent the Commission.

Chairman Damian commented that the AG will be the one to make that decision.

Commissioner Calvo commented that it will be in the best interest for the Commission to focus on one individual representative and not have different representation at every meeting.

2. Ypao Point Development

The Administrative Director commented that the RFDP edits and updates are done and the critical items are:

1. Section III. Master Developer Responsibilities. Paragraphs 6 and 7;
2. Section VI. Business Terms. Paragraph 8 and 9; and
3. Submission deadline which was tentatively set for 2pm, Friday, January 27, 2006.

Given the fact that the Commission is still reviewing the RFDP the deadline can be changed. As a side note the Director suggested that the inclusion of a medical/research facility in the development proposal somewhere, that will help alleviate the Perez interest against the property with respect to there being a hospital or such type of institution on the property.

Attorney Troutman commented that the old proposal actually provided that the numbers 2 and 3 bidders would be able to negotiate or at least take the place of bidder number 1 as they withdrew. Attorney Troutman inquired if bidders 2 and 3 had been given the opportunity to do so.

The Administrative Director commented that the bidder that the Commission had entertained was the sole bidder to meet the requirements of the RFDP.

Commissioner Matanane commented that it was the Ypao Point Taskforce that selected that particular developer.

Chairman Damian commented that the date of submission would have to be changed based on what has transpired.

The Administrative Director commented that a two week extension would be adequate if the Board does approve the RFDP as it is. He also would like to request the Board's permission to reactivate the taskforce.

Chairman Damian commented that it can be done if it is the pleasure of the Commission to reactivate the taskforce to review any submissions because the taskforce was put together by law.

Commissioner Matanane commented that the taskforce was created by the legislature.

Chairman Damian commented that he will transmit a letter to the Speaker regarding the issue.

Commissioner Calvo inquired if we have time to notify the taskforce members.

Chairman Damian commented that the RFDP is one thing as far as the two week extension but the taskforce does not have to meet the two week extension. Once the submission is closed then we can put together the taskforce however the Commission would need to get clarification on it.

Commissioner Matanane inquired on what will be the main task of the taskforce. Would it be the construction of the building and all the particulars that need to be put on the property?

The Administrative Director commented essentially the same function that they had back when they were enacted.

Commissioner Matanane commented that most of it has been done if you go back into the taskforce's work they do have the reports and he doesn't mind having the taskforce reactivated.

Chairman Damian commented that the two week extension would bring it to February 10, 2006.

Commissioner Calvo commented that members of the taskforce should be notified now seeing that members are changed.

Chairman Damian commented that he will transmit letters to the executive and legislative branches on the matter.

B. Marilyn Borja Status

The Administrative Director informed the Commission that Marilyn Borja is the widow of a qualified applicant however she is unqualified based on the fact that she does not meet the definition of a native Chamorro by virtue of the Organic Act of Guam. There was a building on the property that she and her husband had built and when her husband passed away she was displaced by the family of her husband who moved right in and she had to live elsewhere. Now she is in the situation where she needs to go off-island for medical treatment and she needs help in that regard. She submitted a medical authorization form that indicates that she has severe rheumatoid arthritis and she is hoping to go off-island for treatment. We had received an opinion from the Attorney General's office regarding Marilyn Borja's case.

Attorney Troutman commented that it is a difficult issue because 21GCA§75109 sets forth specific details as how a lease is to be succeeded when someone dies. You don't follow the normal probate rules because it has all been dictated by the Chamorro Land Trust Act. First preference of section 75109 is that the lease and all the improvements go to qualified relatives and if that happens then there is no partitioning, there is no value or money given to the surviving spouse. In the letters, he did not get a clear indication whether the relatives moved in on their own or with the approval of the Commission under the succession rules of the Commission. If they moved in with the approval of the Commission then there is no money due to the surviving widow because the entire lease goes to the relatives. Paragraph 4 basically sums it up on section 75109 which states "Upon the death of a lessee leaving no

such relative qualified to be a lessee of Chamorro homelands, or the cancellation of the lease by the Commission, or the surrender of a lease by the lessee, the Commission shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased." Attorney Troutman stated then the probate laws of Guam will take over at that point and require the representatives of the deceased to distribute it however the probate courts determine. There will be a petition for distribution. If the lease continues and relatives succeed to the lease then there is nothing to appraise, they got the land and the improvements. The only time you get an appraisal is if there is a failure of succession or you cancel the lease after the death of the person. It appears that the lease is not cancelled and it has been taken over by the relatives and assuming you have approved it then unfortunately for Mrs. Borja, there is nothing for the Commission to give. The idea is that you appraise it and pay the deceased the money because the relative no longer controls the property. In an ordinary house lease or business lease the standard language, which always can be changed, is that the heirs can take over the lease if something happens to the lessee but there is such things as life estates and other types of estates where the interest expires when the person dies and this one says it continues only if there is a qualified successor and apparently there are.

Commissioner Calvo commented that there is a relative but they had just basically moved in and the Commission had not approved that. My question to that is that it speaks here that it has to go to court and to probate but Mrs. Borja is fighting only for part of her rights.

Attorney Troutman commented that the question here is does she have any rights and it needs to be investigated and decide what is going to happen to the lease according to the law. When there are more facts then he can look into it further.

Commissioner Calvo commented that once we lease it over to the relative or to someone else that might be interested then that particular infrastructure who ever is going to move in has it made.

Attorney Troutman commented that is correct.

Chairman Damian commented that according to the Trust and its provisions, the family does have the right to continue the lease and I believe there has been communications with the family regarding the issue.

The Administrative Director commented that he had sent the family correspondence advising them to come into the office and must make arrangements on payments on the value of the improvements which is in addition to prior to letters sent to them.

Chairman Damian commented that the Trust has to decide now in order to provide approval of immediate family to continue the lease and elude Mr. Elliott to the dollar figures that need to be settled prior to them taking over the lease.

The Administrative Director commented that the amount is \$13,000 that has been agreed upon that is the value of the improvements. The Director doesn't believe that the family is

capable of paying the amount in lump sum so the Commission may want to entertain a payment schedule.

Commissioner Perez commented that according to Attorney Troutman if the applicant of the property dies and the next in line is the relative who is qualified for the lease then there is no money to be disbursed.

Attorney Troutman commented that he has not looked into it yet because he is just learning it now. He didn't look into whether the relatives have to pay anything yet but what he is saying is that if there is a succession of relative then you do not have the power to do an appraisal and pay any money to the wife of the deceased who is not qualified. If she were qualified she would be the one to take over the lease but since she is not qualified then that is where this Commission does not have the power to act.

Commissioner Calvo commented that there is no win for the Commission as far as Mrs. Borja. The poor lady had invested on the home but it is actually out of our hands unless the law is changed.

Attorney Troutman commented that it is one of the problems with this law as far as personal matters go.

Commissioner Calvo commented that even if the family of the deceased does go in they don't have to really agree with the Commission on paying the \$13,000.

Attorney Troutman commented that he would have to research that part of the situation.

Commissioner Perez inquired if the \$13,000 is going back to the Land Trust.

The Administrative Director commented yes.

Commissioner Calvo commented that Marilyn Borja is asking for it.

Attorney Troutman commented that in this case the law states that first preference is that the lease continues with the qualified relatives but it is only where there aren't any relatives to give the property to then that's when you give the value of the improvements to the surviving non-qualified spouse.

Commissioner Perez commented but that is only if there are no other relatives.

Attorney Troutman commented that it is called a failure of succession. The first priority is succession of qualified people and only then if there isn't any then that's when you pay out the value but then again you don't pay to it directly to the surviving spouse unless she is also the representative of the deceased, you pay it to the estate of the deceased because under law it is his lease. The improvements go to his estate and then the courts decide who gets it.

C. Survey Request Status – Danny H. Jackson

The Administrative Director commented that at the last meeting Mr. Jackson came forward and submitted a claim on Lot 5402 in Pagat, Mangilao. In December 2003 he had signed a lease for a half acre and had testified at the last meeting of how that signature had occurred and had left out a lot of unanswered questions. They maintained a one acre as farm and residence and had let the remaining area go. The Director had toured the perimeter with Mr. Jackson and it appeared to the Director that there was some activity in the areas that he had pointed out, activity in the past and current as well. This Commission granted Mr. Jackson's request for 5 acres with some conditions particularly to maintain a farm plan and the survey should maintain a buffer strip along the cliff side overlooking Sasayan valley and the standard buffer strip along Route 15 to assure that there weren't any encroachment on the eminent widening of the roadway and also that the Chamorro Land Trust Commission pay for the survey.

The current status as the Director was told by the surveyor was that the surveyor was prevented from completing the project specifically on placing the markers because Mr. Jackson disagreed to the where the markers are to be placed or something to that effect.

Chairman Damian commented that in totaling up the area where Mr. Jackson was suppose to be on the best documents that we can up with shows 6½ acres. Mr. Jackson's request for 7 acres is short by a half acre.

Chairman inquired from the Director if and when the issue is resolved and the continuation of the surveying takes place is that another set charge? Does he continue the work or we pay him when he's done and then we have to hire him back to redo the survey?

The Director commented yes. The surveyor fee that the Director negotiated was based on the amount of acreage that the Board approved so if there is going to be additional area added on obviously there is going to be additional work done by the surveyor and they would want additional compensation.

Commissioner Calvo commented that technically the job had not been completed so we can continue on this as part as the additional but maintain it at a low cost.

Chairman Damian commented that there are many ways to tackle this issue with respect to the half acre. One is to have Mr. Jackson provide an addendum to the existing plan which will entail what kind of movement and what kind of work is going to be done with the additional half acre to be a part of the addendum to his original plan. Second of all that is one option which is probably the quickest action if the Board decides to rule in favor of Mr. Jackson for the half acre then really the quickest way to take care of that would simply be for Mr. Jackson to turn an addendum to the existing plan. If that being the case then we can continue with the surveying and the completion of the survey of the property.

Commissioner Matanane recommended that Mr. Jackson provide the Commission with the detailed farm plan for the additional half acre. I believe he has already given Dept. of Agriculture a detailed farm plan.

Chairman Damian commented that we do have that on record.

The Director commented that any award in addition to what has already been approved should be subject to availability. There has been some placement up there and I'm sure that Mr. Jackson is well aware of the area that he would like to acquire and I'm sure he's looked into the possibility that no one is there and I am hoping that is the case and we can proceed based on that and will make sure that staff prove that there is no else in the area.

Chairman Damian commented it is subject to non-encroachment of existing occupants.

Josephine Jackson, wife of Danny Jackson, commented that on the last meeting Commissioner Oscar Calvo stated that if Mr. Jackson wants to apply for the other two acres then he would need to come back and apply for it. Mrs. Jackson inquired if he meant that they would need to apply for 5 acres from Agriculture that we have to come back and apply for two more acres or for the two acres that we are staying on now.

Commissioner Calvo commented that he didn't fully understand in the beginning of the other half acre which when he came here he was only given a half acre when for 30 years he had maintained all that and that he was short changed. So it was the responsibility of the Commission now but to garner the extra half acre that he provide us a plan of action of what you are going to do with the half acre.

Commissioner Matanane requested that Mr. Jackson provide a farm plan for the additional half acre.

Danny Jackson – I don't understand what you're saying, understand me and listen to what I am saying. I am saying, ladies and gentlemen that I have been occupying the land for about 30 years. This past week, I saw someone in my property that I am occupying. I asked them what are you going to do and what are you doing here. They did not tell me what work they are going to do only to say that they were told from Quan that they are going to survey the land. So I asked them what land are they going to survey because 7 acres of land I have been occupying. The surveyor told me there is no 7 acres that they have given you. I told him that I don't know what you are saying because I have been using this 7 acres of land for about 30 years. Ladies and gentlemen, the 7 acres that I have been using for 30 years, have taken 6 acres and where my house stands with my driveway, that is the ½ acre that I have said I am occupying right now. Back in the days I was raising 11 or 12 horses, 30 cows, and 60 pigs but at that time when I got shot and was crippled, I am not able to work or do what needs to be done. I want to understand what you are saying about the ½ acre which is to complete the 7 acres. I have been in this 7 acres for about 30 years already. I have been asking the Chamorro Land Trust to give back the 6 acres to complete the 7 acres that I have been occupying. No, I am not asking 2 acres, no, I am not requesting for 5 acres. Senot Calvo, when we used to be here, I had asked the Commission that because of the way I am. I am an old man at this time, but this new life that I have now, this is what's coming to me, I cannot understand, won't understand. Senot, I hear what you are saying, I like this type of conversation because I can hear you. Again, I am not asking for a lot of acres. I am not asking for 5 acres. I am only asking for the 6 acres that they are to give back to complete the

7 acres that I have been occupying. That is where my kids are to be raised and at this time I am not able to work because I am handicapped. So if you don't give the 6 acres to complete the 7 acres, please, we are not all going to be alive and one of these days one of us will pass away and I don't want it to be me so I need to take care of this and make it clear. And if I do pass away, my kids would be left to be occupying as long as they are still alive. Senot, 2 acres is ours, 1 residential for me and 1 for my wife. I have applied ever since for 5 acres so they gave me. So it was at that time that the Chamorro Land Trust had given me the 6 ½ acres. This is all that I am saying to you, that I want my 7 acres back. I have occupied it for the past 30 years. Thank you

Vicente Garrido – I'll just make this short, this survey that you recommend for the land, what you are saying buffer strip that looks down of Marbo Cave and forward of Rt. 15. So this is what we're saying that the land inside is what he is asking for to use from Chamorro Land Trust. So all of that land towards the backside to the Cliffside onto Rt.15. I went there before and we went for a walk, the two of us just to make sure that he really has been occupying the land. That is all I want to say. Thank you.

Commissioner Matanane commented that I just want Mr. Jackson to know that we will be giving the 7 acres and that we did not take it. But to inform us on what is your plan for the immediate areas that are left to complete the 7 acres.

Commissioner Calvo reiterated Commissioner Matanane's statement on Mr. Jackson to provide the plans on what he is going to do on the property for the Commission's records.

Commissioner Matanane made a motion to return the 7 acres to Mr. Jackson with submission of the farm plan for the additional half acre usage. Commissioner Calvo seconded the motion. There were no objections, MOTION PASSED.

IV. NEW BUSINESS

A. Mental Health request

The Administrative Director commented that the Department of Mental Health has long had a dream of establishing a healing hearts crisis center. At one point it was called the rape crisis center. We do have Public Law 22-23 that authorizes the Governor of Guam to set aside certain land in Tamuning for a temporary rape crisis center. This land happens to be at Ypao Point but it only takes up roughly 1,894 square meters which is approximately a half acre.

Commissioner Calvo commented that there was a crisis center in the area in the past and inquired if that building is still there.

Eddie Reyes, Deputy Director DMHSA, commented that since Public Law 22-23 was passed in 1993 there was a building that was constructed on the property. It was a wooden structure building that was under the operation of Dept. of Mental Health and at that time it was called the rape crisis center. Unfortunately it was destroyed in December 2002 during Typhoon Pongsona. Since then we have been working with FEMA recovery office to do some FEMA mitigation on that particular property to convert that from a wooden structure to a

concrete structure and there are some other issues that were associated with that with respect to resolving that FEMA mitigation. We have since received approval from FEMA to go ahead and reconstruct that building and the mitigation plan is to construct that from a wooden structure to a concrete structure. We still have the requirement to conduct direct services to those individuals who have been sexually assaulted. We have a requirement by FEMA to implement this project and have it completed by the end of December 2006. We've been told by RCO that if we don't proceed with the project we are at risk of losing that funding which is approximately \$112,000. According to the public law if we no longer have any need for the property then it would revert back to the Chamorro Land Trust. I'm here to state that we have a requirement and I'm sure some of you are aware that there is an increase of sexual assault on the island and just for a point of departure 75% of our victims are minors and we know that there are unreported cases out there. Our intent is to establish a medical facility. We need to be close to Guam Memorial Hospital and also close to Dept. of Mental Health so that we can provide medical and psychiatric services. We are here today to inform the Commission that we are ready to proceed and we just want to make sure that there weren't any problems with proceeding and the law is very clear that as long as we have a requirement to continue those services then the land will stay with Dept. of Mental Health so that we can deliver those services. We are begging your condolences to allow us to proceed.

The Administrative Director informed the Commission that the area is located at the western most part of the area closes to the hospital.

Commissioner Calvo commented that the area is where the old teachers housing is located.

Eddie Reyes commented that Judy Shockley from RCO had indicated that her recommendation in dealing with FEMA was for us to not try and change the location but to build on the location of where the building was destroyed. It will cut down on the bureaucratic process as far as getting that building built.

Commissioner Matanane inquired if FEMA is still working with Dept. of Mental Health assuring them that they will build on the property.

Eddie Reyes commented yes.

Chairman Damian raised the issue that should that become an impediment of developing Ypao Point or is there enough real estate and property there that would not interfere with any of the development process.

The Administrative Director commented that we are only talking about 2,000 square meters as opposed to 48 acres of Ypao Point property so the impact is very minimal if at all any.

The Administrative Director inquired that once this facility is built, is it going to be considered a medical facility.

Eddie Reyes commented that they are getting clarification with Dept. of Land Management and they are in consultation with them. It is their understanding that it is going to be a

medical facility so it has to be built towards those specifications. If we can avoid that then we would and it can reduce the overall cost of the project. From what his staff is telling him it will be a medical facility and it would have to be designed to meet those specifications unless we are told otherwise.

Chairman Damian commented that there has to be some surveying in the area and inquired from the Administrative Director on who would be incurring the surveying cost.

Eddie Reyes commented that he had a meeting with Dept. of Public Works, Administrative Director Tom Elliott, Dept. of Land Management as well as the FEMA recovery office and Dept. of Land Management had expressed that they will conduct the survey.

The Administrative Director inquired on what is the likelihood of RCO imposing the requirement that this become a medical facility.

Eddie Reyes commented that he is not convinced that it needs to be a medical facility and doesn't think that it is a RCO call. Mr. Reyes commented that he thinks that the call will be determined by Dept. of Land Management based on what the building codes and specifications would be required for the type of services that we will be delivering. We will be doing medical examinations because these are victims that have been assaulted and there are a lot of forensic evidence that needs to be collected and so forth. We are working with a number of agencies that go through what we call a multi-disciplinary treatment team. So from the medical standpoint there is a requirement to obtain evidence.

The Administrative Director inquired if there is any design plan submitted for the building.

Eddie Reyes commented that they have identified a sketch but part of the FEMA money is for them to do a design to build. They have been allocated with a certain amount to go ahead and proceed with the design phase. We have to maintain essentially the same footprint that the previous facility was based on and if we do anything larger than that then we would have to identify additional funding source.

Commissioner Perez commented that this would be like a plus for the Commission to fulfill an obligation on the Ypao Point property.

Chairman Damian commented that it is part of the Commission's mission and it's enabling Act.

Commissioner Calvo made a motion to approve the request by Dept. of Mental Health. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.

B. Request by PALP for assistance

The Administrative Director commented that he and the Chairman on one occasion had been taking trips to Palau for the purpose of planning the venue and the agenda for the Regional Land Conference that is set to occur on March 13 through the 18. It turned out to be

somewhat of a logistical exercise. At the time the Director and the Chairman took the trip to Palau there were only 4 of them working on the project and they were so confident that they had it fairly completed. The Director had to take two more trips since then to continue the planning. They had set the venue and had semi finalize the agenda. They had received word last week that the grant for funding from the Dept. of Interior was approved so now they need to once again meet and plan to disburse those funds to the key speakers and presenters that they are trying to pull into this land conference. Once again the Pacific Association of Land Professionals has asked our assistance specifically the Director's assistance to help them with negotiations to bring two very, very important parties to the land conference from the Philippines. These are individuals who own factories that calibrate measuring instruments and companies who are at least in the forefront of surveying and GPS and GTS technologies. The great thing about it is that they are our neighbors and it doesn't take much to go over there and start pricing equipment for our needs and also to look at the possibilities for getting training for our staff so that we no longer have to rely on other agencies and in many cases some pricey surveyors and their efforts to become very comfortable with Land Trust projects. What they are asking is for us to help them with negotiations in Palau as well as in the Philippines.

The Administrative Director commented that the work session is scheduled to take place on January 15.

Chairman Damian highly recommended that the Commissioners attend the conference. It is set up right now regionally but the inquiries that we have had so far is more internationally.

Chairman Damian inquired on the amount of the travel cost.

The Administrative Director commented that it is going to cost approximately \$3,500.

Commissioner Calvo inquired if the U.S. is included in this.

The Administrative Director commented yes such as from the Dept. of Interior and the University of Denver to name a few. These people will lend quite a bit of credibility to the land conference and who are also accomplished speakers in their fields of endeavor.

Commissioner Calvo inquired if they come at their own cost.

The Administrative Director commented that in this case the reason why he is going to the Philippines is to negotiate with them on what it is going to cost the PALP organization to bring them out to here. The funding from the Dept. of Interior is very limited.

Chairman Damian commented that it is very critical for the Commission to be there and they are looking at training and in bringing our people over there to take part in the training on satellite issues and mapping issues.

Commissioner Matanane made a motion to disburse \$3,500 to cover the travel costs. Commissioner Calvo seconded the motion. There were no objections, MOTION PASSED.

C. Other expense

Chairman Damian commented that the Commission would also need to entertain a motion for the approval of the disbursement of \$156.58 for last weeks gathering at Esmeralda.

Commissioner Calvo made a motion to approve the \$156.58 to cover the luncheon cost for the Commission on December 30, 2005 at Esmeralda. Commissioner Perez seconded the motion. There were no objections, MOTION PASSED.

V. DIRECTOR'S REPORT

A. Guam Raceway Park – Mitigation plan by Dept. of Agriculture

The Administrative Director commented that the Land Trust became aware of a clearing at the Guam Raceway Park and as it turns out it was a clearing without permits. We have had several meetings with Dept. of Agriculture and Guam EPA to discuss the impact of the area and to discuss what fines or any other penalty to be imposed on the Guam Raceway Park.

The Administrative Director stated that we have gotten back some information from Dept. of Agriculture with respect to fines. In an email from Dave Limtiaco from Dept. of Agriculture, he cites Public Law 16-62 which is illegal or non-permit cutting of trees on Government land which is up to \$1,000 in fines per violation. Essentially this gives us an idea on what fines can be imposed on a situation such as this. However we cannot determine how many trees have been removed so that could easily be an exercise and futility. Another option that was proposed by Dept. of Agriculture was a mitigation plan. I spoke with Director Paul Bassler and one of the comments that Mr. Bassler mentioned was that it would make more sense on an environmental level to just have the area mitigated. Some plants replanted and have the raceway park shoulder those costs.

Commissioner Calvo commented that we should go with the second option.

Chairman Damian inquired from the Administrative Director on what else was disrupted in the area aside from the natural habitat and was there any removal of coral.

The Administrative Director commented not to his knowledge. The clearing was done specifically to create easier access from the Smithbridge site to the Guam Raceway Park and to allow the transfer of materials between the two sites.

Chairman Damian commented that the letter from Smithbridge indicates that Smithbridge is planning to blast 240,000 cubic yards of material at the Guam Raceway during the next two years facilitated by the use of the existing road connecting their yard and the Raceway. Their weekly production will be approximately 2,500 cubic yards, which will equate to 10,000 cubic yards per month. The actual production will be tabulated at the end of each month and paid

to the Chamorro Land Trust at a rate of \$0.50 per cubic yard. The overall value of the contract for the use of mentioned road is estimated at \$120,000.

Chairman Damian inquired on who came up with the \$0.50 to Chamorro Land Trust.

The Administrative Director commented that he does not have any idea.

Henry Simpson (Guam Racing Federation) and with him is Hernan Bonsembiante who is the engineer contract manager at Smithbridge who is doing the permitting process on the road. Just to bring you up to date EPA and everyone else had signed off on the road except Parks and Recreation who is going to look at the road tomorrow. To address the \$0.50 per cubic yard this was in the very beginning was set as a number with Chamorro Land Trust that I could deal with the contractors on. In some cases it has been less than that. Initially we started with Perez Bros. at \$0.50 per cubic yard because they were going to cut the property to exactly what we needed to build on and when they weren't able to do that they could still do rough cutting but they didn't have to cut to what we exactly needed. If they ran into a real hard spot they could leave it and go around it so we had to hire somebody to come back in later to do the blasting to remove that material for that we charged them the \$1 per yard in which \$0.50 goes to the Chamorro Land Trust and \$0.50 goes to the Racing Federation. Smithbridge, two years ago and now just starting also this year are one of two companies here that have the ability to do blasting for us. They are going to come in and blast the area that Perez Bros. can't move for us. Because we are paying them to come in and do the blasting their royalty is based upon the higher dollar per square yard. Hawaiian Rock is paying \$0.50 per square yard because they are coming in to blast another section and they are taking that material and they are not charging us to blast. We are having to pay Smithbridge whereas we are not having to pay Hawaiian Rock. Hawaiian Rock needs the hard material that we have and Smithbridge doesn't really need the hard materials because they have their own coral pit. To induce them to come and take out our material we are having to pay them to do blasting in the area. These prices were agreed upon over 6 or 7 years ago that this would be the royalty that was paid.

The Administrative Director inquired if there was a provision for high cost of living to increase the rate.

Henry Simpson commented that there weren't any and he is trying to keep the cost down and keep the volume up because they are several years behind in this project and the main contributing factor to that is the hardness of the material and having to hire contractors to come in and blast. If everything goes right within the next month we'll have all three rock companies working out there. Smithbridge coming in from the north, Hawaiian Rock from the south and Perez Bros. taking the softer center section and removing as much material as possible. The lower the cost are for them the more volume we can get out there. As you can see in their letter we still have over two years of blasting to do every week.

The Administrative Director commented that as stated in the letter the overall value of the contract for the use of the mentioned road is estimated at \$120,000 and inquired if this is based on the 50 cents.

Henry Simpson commented that it is 50 cents based on 240,000 yards but it could be as much as 300,000 cubic yards.

Commissioner Calvo inquired on how is it determined that 10,000 cubic yard is blasted every month

Henry Simpson commented that the way they have done it in the past is count the truckload of materials that go out so that we can monitor and track how many truckload leaves the site and that is how we measure it. With Perez Bros. we go at 14 cubic yards per truckload going out. They give us the report and we do spot checks. It doesn't really pay to have a person there every time counting trucks but we do spot checks on what is taken out and the volume and it has worked well.

Henry Simpson commented that the reason for the road is rather than to use a 12 to 14 cubic yard truck they can use a 35 cubic yard truck and it is a shorter trip.

Commissioner Calvo commented that once you guys complete the project would the road be smoothed out and not just a rough terrain.

Henry Simpson commented that they have added a lot of material so it is a smooth road. In order for the trucks to live longer the smoother they can travel the longer they are going to last.

Commissioner Matanane inquired if it is the raceway park area that the materials are being extracted from.

Henry Simpson commented yes.

Commissioner Matanane inquired if his plan is to use the property as a raceway area.

Henry Simpson commented yes. We've got about 6 million dollars worth of improvements done to the property already and it's looking like it is going to be several millions of dollars more of improvements done to the property. They have got the center line where the grand prix race course is going to be put.

Commissioner Matanane clarified that they are going to make use of the property after they blast the coral out.

Henry Simpson commented yes.

Commissioner Matanane inquired on what are they going to put in after they blast the area.

Henry Simpson commented that there is kind of a ridge that runs through the property and on the top part of it is where the temporary racetrack is at now and they are also going to include a drag strip.

Commissioner Matanane commented the Commission should have royalties from this and inquired if he is selling the coral to Smithbridge and Hawaiian Rock.

Henry Simpson commented yes, Smithbridge, Hawaiian Rock and Perez Bros. In their original proposal the removal of the materials we didn't put a cost to ourselves of having to blast and remove these materials because they had some value so we could have the contractors come in and do all the work to level this out for us so that we could build what was approved to be built there. The problem we ran into was after 9-11 the demand for this material went way down and the group that we had there at the time did not have the type of equipment that could remove the material so we could build the temporary drag strip.

Commissioner Matanane commented that his main concern is that this is Chamorro Land Trust property and of course you are going to try and make a raceway out of and inquired on how much is he selling the materials for and would like to see the breakdown on who gets what.

Henry Simpson commented that in the license it was addressed that 50% of the royalty would go the Chamorro Land Trust and 50% to the Guam Racing Federation.

Commissioner Matanane inquired on what is the 50 cents.

Henry Simpson commented that we charge \$1 per cubic yard that goes out and 50% of that goes to Chamorro Land Trust and 50% goes to the Guam Racing Federation.

Commissioner Matanane inquired on how much cubic yards does Mr. Simpson see to extract from the property.

Henry Simpson commented right now they are projecting for Smithbridge at about over two years about 240,000 cubic yards. With Perez Bros. it has been about 4,000 to 8,000 cubic yards per month because they only work in the softer coral areas because they don't do blasting. With blasting it is a much more predictable amount of material.

Commissioner Matanane inquired on what is the difference between the soft material and the hard material.

Henry Simpson commented that the hard material is the marianas limestone.

Commissioner Matanane inquired if that is more expensive.

Henry Simpson commented that it is more desirable for asphalt but less desirable for concrete. So if there is a big demand for asphalt then they like that stone but it is also harder to process. The harder it is the more expensive it is to handle as compared to the softer material.

Commissioner Matanane commented that what he is trying to get to is how much is the material being sold for between the hard and soft materials.

Henry Simpson commented that Perez Bros. pays \$1 per cubic yard for the soft material, Smithbridge would be paying \$1 per cubic yard for the hard material and Hawaiian Rock is paying 50cents. The whole 50 cents goes to the Chamorro Land Trust because he doesn't have to pay Hawaiian Rock to blast the material for them.

Commissioner Matanane commented that he doesn't gather that concept of Hawaiian Rock paying a lower amount.

Henry Simpson commented that they don't pay the Guam Racing Federation they pay the Chamorro Land Trust the same amount. Henry Simpson commented that his contract with them is because he doesn't have to pay them and they just want to come in because they want the material because their quarry is running out of the hard material. They want the hard material and Henry Simpson wants to move it out so they are still paying the 50 cents but that goes to the Land Trust because they don't have a cost going out.

Commissioner Perez commented that she doesn't quite understand the pricing. Why is he charging \$1 for the soft material to Perez Bros. and he is not blasting.

Henry Simpson commented no but he is removing material.

Commissioner Perez commented that it is the same thing as Hawaiian Rock removing material. Why is Hawaiian Rock being charged on 50 cents and Perez Bros. who is taking the softer material being charged \$1?

Henry Simpson commented because they can't level to the area that he needs and Hawaiian Rock can. Perez Bros. works around only taking the soft material and doesn't leave a finished product. After they are gone he still has to pay someone to go in and fix the area so that's the difference. In the beginning it was that way but they were going to send their crew off to learn to do blasting then they decided that they were going to do it a different way. In March they are going to be bringing in a different machine that is going to change that. If they can take the hard material and cut the area to a level that he needs then that would change what they would be paying.

The Administrative Director commented in the mitigation plan, the area to be fenced, planted and protected is 15 acres within the race track and inquired on where is the 15 acres is going to be located.

Henry Simpson commented that the original plan has a lot of landscaping with the racetrack so one of the things that Agriculture asked them to do is to use indigenous trees or plants for landscaping at the track. The area is located on the back section right close to the cliff line which is going to be cleared and leveled with coral fill and will be planted with the fading cycad trees. The reason for the fencing is they have 16 adult ufa trees and all around them they have a lot of young seedlings but they can't find any adolescent trees around and they think that the pigs or deer are eating the bark.

The Administrative Director inquired if there was any mitigation plans for the area that was cleared.

Henry Simpson commented no they didn't request for them to do anything there.

Commissioner Matanane commented that his only problem is it belongs to the Chamorro Land Trust and at the rate of 50/50 with his organization he believes that the Chamorro Land Trust should get more such as 60/40.

Commissioner Calvo made a motion to go with Dept. of Agriculture's mitigation plan and not impose any fines to the Guam Raceway Park. Commissioner Matanane seconded the motion. There were no objections, MOTION PASSED.

B. Website IAW P.L. 28-57 – advisory status report

The Commission's website was shown to the Commissioners which includes basic information on the services that the Chamorro Land Trust Commission provides along with various forms that can be downloaded.

The Administrative Director commented that Eileen Quichocho has been very crucial in putting together the website for the Commission along with the admin. staff as well.

C. Revenues and Expenses for November & December 2005

At the end of November 2005 the Commission had checks and payments totaling \$4,229.31 and deposits and credits amounting to \$32,872.10. The total cleared transactions total \$28,642.79 leaving a cleared balance of \$1,006,706.53.

The balance sheet as of December 31, 2005 shows the current assets of \$1,111,492.32.

Going back to the assets, Commissioner Matanane inquired if there is a valuation of all the properties that the Commission has.

The Administrative Director commented no that there is no appraisal value on the Commission's inventory.

Commissioner Matanane commented that it would be a good power of lending.

Chairman Damian commented that we can phase that type of operation such as a geographical timeframe such as north, central and south and we don't need to reinvent the wheel because there are already documents on it and all we need to do is to get an update.

Commissioner Perez commented that we can extract that from Dept. of Land Management even if it is not appraised.

Commissioner Matanane commented that the Director speak with the real estate division at Dept. of Revenue and Taxation on the appraisal value of certain areas.

Chairman Damian commented that the Commission will be entertaining the audit report at the next meeting.

VI. PUBLIC COMMENTS

James Baldwin – John Perez, President of Perez Properties Inc., is off-island so he had asked him to show up and say a few words. First as you may have recall when several of the children of Frank Perez appeared here their father had been approached by Governor Skinner with the idea of putting a civilian hospital on Ypao Point that rival the views that navy personnel get navy hospitals. The point was that this is only fair for civilian population it's not fair that the military has this beautiful site and the civilians don't. We are very pleased that the Commission has at least recognized that there was vision on the part of the late Frank Perez. He didn't get fair market value for the property. He didn't really care about fair market value at the time. Governor Skinner came to him and said that we have this much money and that is all that I can offer you and I am going to be getting some surplus army equipment from Saipan and we'll give you the surplus army equipment. Mr. Perez said that was fine. The army equipment didn't come through because the navy came in at the last minute and scooped it away from GovGuam. Mr. Perez said that it was fine and lets just build the hospital. Now that the land is not being used for a hospital to the extent that it may be developed as a medical plaza or something that provides just a sense of healing of the beautiful scenic views to the people of Guam, I'm sure it would satisfy his vision and I can't express how much happier we are with this proposal than the original one. Even apart from the vision of Frank Perez, tourism is something that flows whereas medical facilities tend to be a lot more stable. I just think that the Chamorro Land Trust Commission would be a lot happier with the idea of expanding the medical functions of GMH out into a medical plaza instead of having the hotels creep up the hill from Tumon. We wanted to express our thanks that the Commission has taken another look at this. The research part is up to the Commission if they want to have a research part of the medical plaza plan. The idea is that it is keeping with the vision. We would like to remind you that sometime ago we had come to the Commission and requested cliff line property on Route 15 just south of the Guam Raceway Park and the reason is Perez Bros. Inc. is licensing the property just south of the Guam Raceway Park and they are going to be developing that into ocean view housing lots in exchange for the right to be able to be removing minerals and there will be royalty involved there. The idea is if we are able to acquire just the cliff line portion of CLTC property we can have terraced ocean view lots. If we don't have the CLTC property, we are going to have to be a lot more creative and come up with a punch bowl type design which would not be nearly as attractive as the ocean view lots will be. We are going to be doing a lot of mitigation work in there to make sure that the native species are preserved and we just ask you to keep us in mind for that property. If there is anyway to work something out there maybe to compensate the family for their compensation they never got for Oka Point we can do a release of claim of interest. We are open for discussion. We believe that are request for CLTC property is not a selfish request because it is really meant to benefit the project for the people of Guam but it is a lot easier sales for the Ancestral Lands Commission if we had beautiful ocean view lots as opposed to the punch bowl lot that is why we asking the CLTC to work with Perez Bros. Inc., Perez Properties Inc. and the ALC to see how we can make this site a truly beautiful site. We are still working on buffer areas with Guam Raceway Park. It is going to take a lot of

cooperation to make this area of Guam a really beautiful area with lots of housing lots for original landowners who have not been able to get their land back.

VII. ADJOURNMENT

Meeting was adjourned at 7:40pm

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