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Chamorro Land Trust Commission

(Kumision Inangokkon Tano' Chamoru)

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COMMISSION MEETING MINUTES Agana Youth Center, Hagatna, Guam November 19, 2009; 1:06pm- 2:45pm

I. CALL TO ORDER

Meeting was called to order at 1:06pm by Acting Chairman Oscar Calvo.

II. ROLL CALL

Present were Acting Chairman Oscar Calvo, Vice-Chairman David Matanane, Commissioner Pauline Gumataotao, Commissioner Carmen Tajalle, Commissioner Andrew Leon Guerrero, Legal Counsel Delia Lujan and Administrative Director Jesse Garcia.

III. APPROVAL OF MINUTES (October 15, 2009)

Vice-Chairman Matanane - Before we approve the minutes I would like to ask the Executive Director and the Chairman on the provision where we have encountered the penalty provision and the interest provision can we discuss that on the executive session?

Administrative Director Garcia - Yes.

Vice-Chairman Matanane - Move to approve the minutes of the previous meeting. Commissioner Gumataotao seconded the motion to approve the minutes from October 15. There were no objections, MOTION PASSED.

IV. PUBLIC COMMENTS

1. Jere Johnson (HRRP) - Thank you Mr. Chairman, Commissioners, sorry I missed the last few meetings that you've had but as you know Hawaiian Rock has worked for about 10 years working on a proposal and site investigations, environmental and archeological studies for a license to grade Lot 5412 in Mangilao. We met with the Director and the Legal Counsel several weeks ago or a month ago or so and told them we are still interested in pursuing a license agreement or a lease agreement to grade the property and pay royalties on the coral that's removed from that property. As you know the Guam Outdoor Shooting Range is requesting a lease on the same property and I understand they requested to proceed without Hawaiian Rock and I think that's in the best interest of them and Hawaiian Rock and the Commission that we work on two separate leases. I don't think they need the entire property to do what they do and what we're going to do is going to take many, many years and result in large royalties to the Commission. So I really think it's in the best interest and it seemed like the Legal Counsel and the Director felt that was probably in the best interest to go but I haven't had a chance to appear before the Commission here and express to you that we are

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still very interested in proceeding with this. We've invested a lot of time and money in this thing, well over two hundred thousand dollars in environmental and archaeological and consultant fees for this project. We did start at that at a time when there was not very much construction activity. As we all know there is going to be a big increase in construction activity and we think this working with Hawaiian Rock will result in a lot of royalties to the Commission. As you know right now through the Guam Raceway Park, Hawaiian Rock is paying well over a hundred thousand dollars a year to the Commission to support your activities through the royalties that we pay there. The royalty rates that we're proposing for this other piece of property is higher and we expect more material to be used out of that property. I just wanted to make that statement today that we're still very interested and I don't know where we go from here. I understand from the Legal Counsel you're still trying to put the rules and regulations together and how you do licenses or commercial leases and we're willing to work with you whenever those rules come out.

Acting Chairman Calvo - We had a meeting on the last maybe about a month ago on the legal counsel and we've come out I guess with your legal counsel together and proposal on how it's going to be resolved. Yes the separation between the Shooting Gallery and you guys that is also in the works. Legal Counsel how far are we on that issue?

Legal Counsel Lujan - Well as for the rules and regulations I can say that it's pretty much done the review of it so I can be forwarding that to the Commission for their review no later than tomorrow. But as for the Shooting Range and Hawaiian Rock I don't believe that it's been decided what areas each company would be interested in licensing or leasing. I don't know if that's been worked out between the two.

Acting Chairman Calvo - I thought that on the issue of the Shooting Range and them that whatever portion that the Shooting Range was looking at where we discussed with your dad on that issue on the 20 acres.

Legal Counsel Lujan - So we know exactly the areas that each wants?

Acting Chairman Calvo - Yes.

Legal Counsel Lujan - Well I'd have to speak with the Attorney who is involved in the meeting and then check on the progress on that.

Acting Chairman Calvo - Can we get a confirmation or something a feedback on that at least by the first of December? I really want to get this on the agenda before the end of the year. I want to get this out.

Legal Counsel Lujan - Is this a request for...(interrupted).

Acting Chairman Calvo - Because it was previous Board approval back then before so this is between the Rock and the Shooting and I know that we are waiting for the rules and regs and so forth. But besides that we were also putting a package on how we were going to resolve the issue on getting more fees to that which we discussed with your dad.

Legal Counsel Lujan - Okay I'll have to speak with him to get that but I'll forward to Jesse a report on the progress by tomorrow.

Acting Chairman Calvo - Thank you I appreciate it.

Jere Johnson - Thank you very much.

2. Jason Tedtaotao(Deputy Director, Dept. of Mental Health& Substance Abuse) -

Good afternoon Mr. Chairman, Mr. Garcia, Commissioners my name is Jason Tedtaotao, Deputy Director of Dept. of Mental Health and Substance Abuse and with me is Mr. Wilfred Aflague aka Trouble shooter, he is currently our Chief Financial Officer and has joined me this afternoon to answer any questions any of you may have. Again in front of me is a letter from Dr. David Shimizu our Director prepared this morning for your information. I guess we'll begin the whole process in engaging our agency with the Chamorro Land Trust and if you'll allow me I'll present his testimony. The subject here is request for transfer of CLTC property to DMHSA for the construction of a new residential facility for consumers. (letter provided to the Commission) *Hafa Adai, Chairman Calvo: On behalf of the employees of the Dept. of Mental Health and Substance Abuse, I would like to extend our most sincere appreciation to you and other members of the Commission for allowing our agency to submit this request for assistance. I respectfully request for the Chamorro Land Trust Commission to transfer to our agency, available property within close proximity to our main building and the Guam Memorial Hospital in Tamuning. While our department is in the process of determining whether this property will be used either for consumers diagnosed with dementia, or for another program that is urgently needed based on the number of consumers currently on our wait-list, this request will help to ensure that our agency has a property available to expedite the construction of this new facility. It is our agency's intent to ensure that, if completed, this facility will provide secured housing for the treatment of our consumers where professional staff such as psychiatrists, psychologists, psychiatric nurses, psychiatric social workers, and other specifically trained psychiatric technicians can provide intensive, diagnostic, and other required treatment. This facility will also provide short-term psychiatric evaluation, treatment, and stabilization services. The placement of this new facility within the general vicinity described above will further ensure that our consumers are integrated with other residents of our general population. As we finalize the specifications for this proposed facility, our agency advises the Commission that communication is being made with the Governor's Office to use available funds from the U.S. Department of Interior that have been earmarked to our agency to pay for all construction costs. We are hopeful that the Commission will assist with this project by transferring available property at no cost. Your assistance will help to ensure DMHSA's continuing efforts to comply with the numerous, and costly, mandates of the Amended Permanent Injunction and subsequent orders of the U.S. District Court. We look forward to working closely with the Commission in the coming months to finalize this project and welcome a new facility that will benefit those in our community who need our help. Please feel free to call Dr. Shimizu, myself or Mr. Aflague or anyone else at the Department should you wish to discuss this matter further. Sincerely, Dr. David Shimizu.*

Acting Chairman Calvo - I had the opportunity to talk to Dr. Shimizu on several occasions and I did discuss this issue with Mr. Garcia because of the areas that we are looking at and I told Dr. Shimizu that there are properties that we can probably give you but I don't know that would be on Jess. Ideally I know you guys are looking for an area where it's close to the hospital and so forth but ideally you guys were looking at the hospital point area. But Jess how are we going to respond to this one?

Legal Counsel Lujan - Is this a request for lease or is this an actual deeding of property?

Jason Tedtaotao - Deeding of property. If at all possible if we can save ourselves a few dollars a year and if there is property available within the general area and you guys can afford to deed the property over for a very long term use then we'd be more than happy to move in that direction.

Vice-Chairman Matanane - Mr. Tedtaotao we don't deed no property out.

Jason Tedtaotao - Okay whatever arrangement is...(interrupted).

Vice-Chairman Matanane - I understand where you're coming from Mr. Tedtaotao. I need we need to even your statement and probably a round table that we can discuss into it. Specifically that property up there in Ypao you guys want it?

Jason Tedtaotao - We currently have a program Healing Hearts that I believe was arrange with CLTC.

Administrative Director Garcia - The Healing Hearts that's been transferred but the Healing Hearts deal with rape victims, this one here is dealing with dementia it's a variety, its residential homes. The thing there the proximity to a school and stuff like that is probably less than a thousand feet from the nearest school which will be LBJ Elementary. Those things would have to be taken into consideration so we have to sit down and plan it out exactly what area would be feasible for them to put this type of facility to take any type of activity.

Vice-Chairman Matanane - Right now where do you guys put your clients, where do you house them?

Jason Tedtaotao - We have a number of residential group homes depending on the particular level of care. Now the type of home that's mentioned here is dementia and that's why we added on the additional sentence or for other consumers current on our wait list. We're required to add additional capacity to our department in terms of the number of consumers that we currently have on our wait list. We have quite a few that's on our wait list and they have different diagnosis. They could be first off children, they're segregating children and adults. Right now we have I'd say less than a dozen residential homes throughout the island and they're primarily as you head north in the Yigo, Dededo area and a lot in the central area.

Vice-Chairman Matanane - And those properties you guys lease or what?

Jason Tedtaotao - It depends if they have contractual agreement with a vendor and if they are required to provide these facilities then they take care of that. If the department takes care of the program management then we ourselves have to either source it out to a vendor that has a home that's readily available or we in this case plan ground up.

Vice-Chairman Matanane - Like Alee Shelters or the Catholic Social Service.

Jason Tedtaotao - Residential homes these are all residential homes for our consumers.

Administrative Director Garcia - I guess basically what they want to do is to try to identify Chamorro Land Trust properties and figure out if it can be either transferred to them or leased to them.

Vice-Chairman Matanane - That's the whole deal the reason why I told Mr. Tedtaotao is we don't issue out deeds too.

Legal Counsel Lujan - Do you know your acreage needs?

Jason Tedtaotao - The specifications we'll go ahead and discuss it in great detail. I believe the Director just wanted to initiate this process by working with the Commission if you'll allow us but I can share with you based on what we currently have in our inventory acreage, it's probably about a typical residential home about quarter acre. I haven't seen any of our homes with a huge yard requirement. So our homes are within the quarter acre no more than an acre.

Acting Chairman Calvo - These homes that you want to build you kept saying residential homes now is this coming in when you say residential homes are these individual patients?

Jason Tedtaotao - No they're residential group homes. They have ranging from 8 to 10 at full capacity these are individuals that are place within a home in a group setting. They're not one house per client or consumer, they're 8 to 10 consumers within one home.

Acting Chairman Calvo - But these homes are designed in a separate room type.

Jason Tedtaotao - Yes they would be segregated.

Acting Chairman Calvo - But when you do that segregation with these individuals each one of them would have different cases. It could be a rape case, a drug addict or whatever things of that nature right?

Jason Tedtaotao - No it has to be specific dementia as we proposed. They would all have to be diagnosed with a particular disorder. They are on our wait list.

Vice-Chairman Matanane - Mr. Tedtaotao does this involve federal funds?

Wilfred Aflague - Sir, yes. At the moment we have a million dollars earmarked from the Dept. of Interior Compact Impact funds. Half a million from 09 and half a million for 2010 so that is the funding source that we intend to use to build this residential group home. To further answer Mr. Matanane some of your point in your mind, residential group homes are as the Deputy said to accommodate 8 to 10 clients, consumers as we call them. But these homes are managed and manned by psychiatric technicians around the clock basis so they're not left to their own devices for example. But yes the reason if I may add Mr. Deputy we are under mandate by the federal court order to acquire a home. They just didn't specify what kind or exactly for what reason. But we have to comply with that court order as part of the amended permanent injunction. But along side that also we have our three to five year plan that we as an agency we're not just reacting to court orders by the federal court we are also planning and so that's part of the reason why the Deputy is here on behalf of the Director to look at properties that we can lease from the Chamorro Land

Trust. I'm also looking at not just the Tamuning area is preferable to us along with the mandate of the law that we keep them a certain feet away from schools and things of that. We're cognizant of that but at the same time also we're looking I dare say in our further discussions and sitting down we'll look at properties throughout the island because there are some locations that we would like to have that are more secluded than Tamuning for example for people with dementia or certain kind of dementia that are on the road to recovery. So we need different settings, different environments for our consumers our clients so this is the initiating stage of the request by the Director on behalf of the department and then if you would like we'd sit down and discuss this further as to our needs. But we're not as I said we're not just complying with a court order but that court order is real. We have to come up with a response I think by the first of December as to what we are doing to acquire a facility but we're also looking at the long range.

Vice-Chairman Matanane - And of course as stated here in your letter that you guys have already earmarked certain amount of dollars, certain amount of money for construction.

Wilfred Aflague - Yes the Governor has earmarked half a million as I said for 09 and half a million for 2010 from Dept. of Interior Compact Impact funds.

Administrative Director Garcia - I guess what they can do is come down to our office and we'll try to help them identify properties.

Vice-Chairman Matanane - Maybe not specifically Ypao.

Administrative Director Garcia - But we'll show them what we have and whatever direction it needs to take to transfer it to them.

Acting Chairman Calvo - Well like what I told Dr. Shimizu that ideally because if you're looking around in Tamuning area and that's why I told Dave I said Dave I can't promise you there but does it have to be there he said no not necessarily but then you just stated that now. Jess when can you get with these guys?

Administrative Director Garcia - Next week.

Legal Counsel Lujan - What is the district court case? The district court case that you have to act under the order. I'm just curious what the case is.

Jason Tedtaotao - We're referring to the permanent injunction the civil case that was brought before the Government of Guam and that we're still under a permanent injunction and we have received numerous orders from the court.

Legal Counsel Lujan - Do you know the parties?

Jason Tedtaotao - The parties are Governor Camacho , Ms. Roseann Ada Director of DISID and now Dr. Shimizu.

Acting Chairman Calvo - Is that directly or indirectly?

Jason Tedtaotao - He is a named defendant.

Legal Counsel Lujan - Do you know who the plaintiff is?

Jason Tedtaotao - Well they have the initials but they're represented by Atty. Dan Sommerfleck.

Legal Counsel Lujan - Is this the one with Consuelo Marshal?

Jason Tedtaotao - Yes. This is what the Director in his vision wants to develop options and we don't want to be stuck with just having a single decision to make and especially in a very reactive nature. So we wanted to come down here and see if this is possibly an option for the department to consider. So we're open to recommendations that the Commission or Mr. Garcia can throw our way.

Acting Chairman Calvo - Would you look at more in the cost effective like because you just eluded that you're actually looking for any other places around the island maybe some owners that have private properties that you can have direct ownership to that piece of property or some owners that have abandoned apartment or something. Have you guys looked at those options by any chance?

Wilfred Aflague - We have sir in that last recent year, Dr. Shimizu has been with us since January and we have looked for certain programs but in almost all cases we have contend to ADA requirements and things like that for people with disabilities both mental and physical. And so with the discussion centered around asking the Chamorro Land Trust Commission for property so that we can build from the ground up to the exact specifications that we would need for a particular need and as the Deputy had mentioned earlier we have both children, adolescents and adults and we keep them separated.

Acting Chairman Calvo - The only reason why I brought that up because when you said earlier that you are looking for anywhere and whether there is another option in the outside because you're asking in the beginning you stated sir that you wanted pretty much ownership of the property and of course if you go out there and buy it from someone else for that matter. I just wanted to make sure that all the options are on you guys and I can understand your point in building a building to your specs because you have to follow all the federal guidelines and I know there's a lot of abandoned apartments and so forth out there. But I'll have Mr. Garcia work with you on that and you identify where the property would be. So it could be in Umatac you guys would be okay right?

Wilfred Aflague - If that place I mean there's places in Umatac I would love to live at especially with the ocean view but it depends on the type of consumer needs and it depends on the type of recovery or treatment plan.

Vice-Chairman Matanane - Very appropriate environment.

Wilfred Aflague - Right.

Jason Tedtaotao - Thank you.

Wilfred Aflague - Thank you very much Mr. Chairman and members.

Acting Chairman Calvo - You and Jess will get and you would identify the property where you guys are going to go.

V. PENDING BUSINESS

1. Application rights of Vicente Baza Pangelinan

(Heirs present: Mae San Agustin, Cynthia Taijeron, Toni Acfalle)

Administrative Director Garcia - This is the pending business for Vicente Baza Pangelinan. The family came last month about the claim of the father and now the sisters are here to settle the father's claim.

Acting Chairman Calvo - I'm aware of your case from the last board meeting that we had and I told you guys on how to resolve this issue. Now have you guys made that decision among yourselves?

Mae San Agustin - Yes we have sir.

Acting Chairman Calvo - Because it'll be easier for us to resolve it than again to go back to the drawing board, so I guess there were four of you.

Mae San Agustin - Yes the other one is up in Washington State.

Acting Chairman Calvo - So is she already in agreeable to your decisions.

Mae San Agustin - According to my other sister they said that there's a paper that came in.

Toni Acfalle - She faxed the papers to Terese and Terese has received it. We should be getting the original by mail so by next week I believe Terese would have that.

Vice-Chairman Matanane - I would like to ask the Director, have you pulled out the original application for that agricultural lot?

Administrative Director Garcia - It's actually a land use permit from Department of Land Management.

Vice-Chairman Matanane - Not directly to Chamorro Land Trust? I just want to make sure that when your father applied for the Chamorro Land Trust or has been transferred over to the Chamorro Land Trust I want to see the paper works on it and if it is a fact 13 acres I just want to see it in writing. There was a question on my mind when I was reading your statement on a previous meeting we had so it's really up to the Director to bring us up to par on it. We would have to check that already but I just wanted to see that document.

Acting Chairman Calvo - It should be in the application Jess right? Okay what we're going to do is because we're going to have the legal counsel look at that issue again and we're going to have to table it all over and just to make sure that everything is in order just to make sure. Since you've already have made your decision among you know and then the Board will make that final decision in you know what are the splits and so forth how you guys are going to work it out. So we'll just put it in on the table.

Vice-Chairman Matanane - I just want to make a comment, congratulations to you ladies.

Heirs responded thank you.

Mae San Agustin - I have a temporary water would I be honored to get water into the ranch for my plants? Would I be honored to go in there and apply for it?

Acting Chairman Calvo - Yes, we just want to make sure that the application is in order that's why we need to table it out with the legal counsel.

Mae San Agustin - Okay so I'll just wait until your decision.

Acting Chairman Calvo - Yes, alright?

Mae San Agustin - Thank you.

VI. NEW BUSINESS

1. Anastacia Bamba - Application rights of Andrew C. Bamba

Present: Genie Hampton, Anastacia and Andrea Bamba.

Administrative Director Garcia - The case here involves Andrew Cruz Bamba, he passed away. Genie Hampton is the wife and these are the kids of Andrew Bamba although the birth certificate of the kids do not reflect Andrew's name so that was a question that we had would they be qualified to get the father's lease. So apparently what they did is they went to get other documents to present to the Board to prove that Andrew is their father.

Acting Chairman Calvo - Jess how many acres is that? Ma'am those are your daughters right?

Genie Hampton - Yes sir.

Acting Chairman Calvo - If I'm not mistaken this is one acre of property. I believe those are the two girls okay.

Genie Hampton - Andrew Bamba named Anastacia as the beneficiary in the event that anything happened to him. You know the problem was the birth certificate number one because I never put his name on them but he did pay child support here on Guam which my daughters obtained documents that substantiate paternity.

Legal Counsel Lujan - When did Mr. Bamba pass away?

Genie Hampton - August 15th.

Legal Counsel Lujan - Oh just two months ago.

Acting Chairman Calvo - You guys are asking for your father's estate now you know I know your dad just passed away recently but did he ever remarry by any chance?

Genie Hampton - No.

Acting Chairman Calvo - The reason why I asked that because if there was someone in his life too someone can just come up to the bat and play too and proclaim that. I just want to make sure and we don't want to go to that same situation because whatever reasons that you split with him at the time I just want to make sure did he ever remarry for that matter.

Genie Hampton - I did remarry but he never did.

Acting Chairman Calvo - So there will be no other kids on the outside, I hate to use that word.

Genie Hampton - Nobody else coming forward and saying hey I want a piece.

Acting Chairman Calvo - Yes and I just want to make sure that you know someone here is going to say wait a minute he's my dad too for that matter so I just want to be cautious to that portion. Legal Counsel how are we going to approach this?

Legal Counsel Lujan - I guess taking over the application rights of Mr. Bamba I don't have the law in front of me but I believe they're within the timeframe for that request to take over the application rights. We have the application here, the death certificate also and it matches with the application. The application also comes with a designation of beneficiary which does name Anastacia Bamba. So it all appears to be as sustained...(interrupted).

Acting Chairman Calvo - In order.

Legal Counsel Lujan - Yes.

Acting Chairman Calvo - So we shouldn't have any problem since she is going to be the beneficiary anyway which he stated already that Anastacia will be the beneficiary of the piece of property. It's just now making it more legal that technically it now belongs to her.

Legal Counsel Lujan - Everything seems in order but I haven't reviewed it or verified it with the law but it seems yes as they're saying, correct. And this would be just taking over the application rights there's not been an award.

Administrative Director Garcia - Actually they've already been authorized to do the survey so whatever is in the process they are going to be taking over.

Legal Counsel Lujan - Okay but there hasn't been a final award yet?

Administrative Director Garcia - No.

Legal Counsel Lujan - So it's just to step into the issues.

Administrative Director Garcia - Actually they are already occupying the property on his authorization from the Land Trust, he was given authorization.

Acting Chairman Calvo - So we shouldn't have any problem approving that thing as far as the application itself.

Legal Counsel Lujan - I mean I don't have the law but yes it seems to be.

Acting Chairman Calvo - Yes because they met the time more than the timeframe.

Legal Counsel Lujan - I believe so it's only two months I believe that is well within the timeframe.

Acting Chairman Calvo - Because if it was over the 180days then that would be a different question.

Vice-Chairman Matanane - If the attorney can come back to us just to make sure and maybe by the next meeting or the Director can give them a call if everything is taken care of and all in that folder or pertaining to the law.

Legal Counsel Lujan - Okay that's no problem at all. I'll review the file and make sure that everything is in order and allowable by the statute.

Vice-Chairman Matanane - And duly noted that they came in on time.

Legal Counsel Lujan - Yes.

Acting Chairman Calvo - And that way maybe we might not have to you know let them come to the next board meeting for that matter maybe we can resolve the issue within.

Legal Counsel Lujan - There can be an approval pending legal review and confirmation.

Acting Chairman Calvo - Okay.

Genie Hampton - I do have one question once you all review it will the amount of time that she's allowed to have to get it surveyed will that start from the date it transfers into her name or will it go back to the original date of Andrew's application?

Administrative Director Garcia - The lease doesn't officially start until it's signed by the Director of the Chamorro Land Trust. So until the map is prepared and everything is created the lease agreement then that's when the official date will be started as of the date of the signature of the Director.

Genie Hampton - So they'll have time to get the survey done.

Administrative Director Garcia - Yes the lease agreement will not start the process until the survey is completed.

Genie Hampton - Okay.

Peter Taitano - Mr. Director I'm Peter Taitano I'm just a friend of the Bamba family. I'm here just to assist them now I have a question in regards to one of the member of the family being appointed okay now wouldn't that be contradiction or a back flow with the other member of the family? Would that be supposed to be a family or just one member of the family? What I'm saying is that you know it could happen jump back the gears and say hey

this is assigned to me it didn't say Andrea Bamba it didn't say Genie Hampton it says Anastacia Bamba so pack you stuff and get out. Now this is the reason why I'm coming with this question because I'd like to hear what the Board has to say about that because you know in due time I know that this could happen okay. Now I don't know how the member would handle that if it's a family thing or just one member of the family because you know I've heard a lot of issue that oh my brother would say your name is not on the Trust so it's time for you to get out. Then there's a lot of confusion and a lot of hardship so now I'm talking about hey who actually should be credit to the property. Is it one member or the whole family? That is to eliminate the problem of confusion.

Legal Counsel Lujan - Well the answer to that question is whoever is entitled to be there on the property is the person who is specifically awarded by the Commission. So if it was the father Mr. Bamba then he would be the person to have a right to be there. If the Commission decides to make the award to Anastacia Bamba then she has the right to be there. So that's really the answer to the question.

Genie Hampton - But what about her sister?

Legal Counsel Lujan - The only person who has a right to be there is Anastacia, whoever she would like to live with her in the house that's up to her.

Peter Taitano - So that's how the members sets it up in reference to the Chamorro Land Trust?

Acting Chairman Calvo - Actually because the father more or less has willed that piece of property under her name. So in general she has that she be the one owning that piece of property and like what the legal counsel said if she chooses her sister to be together in there in that one acre that's between the two of them how they want to work it out but she will be the holding of that lease of that piece of property for that matter. That's why I brought that issue earlier is there any other one in the outside of that issue.

Peter Taitano - What I'm getting at with due respect is that like I stated is you put my brother and then you come in and say hey Pedro it's time for you to get out because I'm the one registered to that piece of property. Now that's going to be a conflict.

Acting Chairman Calvo - And it should that way sir because even if your name is there and Pedro comes in and says hey you got to get out it's your name in that lease. You have that full right.

Peter Taitano - Okay if you establish the name there.

Acting Chairman Calvo - Yes.

Peter Taitano - Oh okay I understand I thought it's the other member or the leader.

Acting Chairman Calvo - No, no, no. Once the lease is fully assigned to her she's the only one. Now if she decides to bring her sister in with her that's her discretion. But her sister can't overrule her unless she wants to do that. But she can't just come in there and say hey

sis you know it's mine now okay, it's under her name, it's under her name that the lease agreement would be under her name so she has the full power pledge of that.

Peter Taitano - She's got the prerogative.

Acting Chairman Calvo - Exactly. No other members can come in there and proclaim that issue because it's already given by her dad that she'll be the one to carry on the piece of property for that matter. Unless she decides to terminate it herself if she says I'm going to give it to my sister, to my auntie then that's another course but it has to come from her. She would have to come back and say I want to transfer this property to my sister for that matter.

Peter Taitano - What I'm saying is that okay, I'm the mother if we have some sort of disagreement I'm going to tell you to pack and move.

Acting Chairman Calvo - The mother can't because she has that right. She's the owner of that piece of property you know and that's what I'm saying unless she wants to opt to give it to her mom for that matter. But her mom can't come and demand and say get out of there.

Genie Hampton - Oh no I wouldn't.

Acting Chairman Calvo - No I'm just giving you hypothetically, I'm just saying.

Peter Taitano - But would the daughter have the prerogative to say then?

Acting Chairman Calvo - Yes if she doesn't want her mom or her sister to be in there then she has that prerogative. But technically that's a family issue that you have to resolve among themselves. She's the holder of that lease that's all it is and who she wants to live in there it's up to her whether her sister, mother, brother or uncle for that matter. But if any one of them decides to say hey you got to get out, no. Unless she wants to give up her lease rights and even if she does that she has to come back to the Chamorro Land Trust and say you know what I'm going to transfer this lease to my uncle for that matter.

Legal Counsel Lujan - And who ever she wants to transfer it to has to qualify.

Acting Chairman Calvo - Has to qualify yes.

Peter Taitano - Okay now another question I was reading the Organic Act 1950 signed by Truman now it states there I'm talking in regards to applicant qualification. Here in Guam it's similar to Hawaii. In Hawaii we call it Half a Haolie, here if you mix we call you Chamaolek okay. Now under the Organic Act it says native Chamorro. Now can you give me a definition of a native Chamorro?

Acting Chairman Calvo - You know Mr. Taitano we're here for her case but we're going into another issue. If you wanted to know something about that earlier you should have signed in on the public comment because what you're trying to tell us here is different. We're trying to solve her problem now you're bringing other issues in okay. So by all due respect we're here for her case. Now you're bringing about Hawaii and Guam whether you're half Chamorro, half a haolie that's different. So we're actually basically trying to entertain her

rights and her rights is there. So if you feel if you have something to say to that then you would have to approach that in a different issue to the board to question the board to that issue, okay.

Peter Taitano - Excuse me again the reason why I raise that question is because the counsel mentioned about qualification.

Legal Counsel Lujan - Whomever is qualified for a lease is set forth in the statute, the Chamorro Land Trust statute and it's native Chamorro and the definition is stated there.

Administrative Director Garcia - His question is how would they be qualified when they're not native Chamorro. That's what he's saying but they're descendants of a native Chamorro which qualifies them as a qualified applicant. That's what you're trying to get at. So they qualify through a native Chamorro.

Peter Taitano - In essence I know what you're explaining but in essence if you go back excuse me we're dealing with native Chamorro. Now I guess this should be revised and say hey these are the heirs of this person but yet this here doesn't specify that.

Genie Hampton - Once again he said that would be something that you would have to take up at the next session during public comments to address that issue.

Peter Taitano - Oh I know that.

Vice-Chairman Matanane - And besides that you're in the wrong venue because we're not going to argue about that.

Administrative Director Garcia - Okay so I'll just work with them on the file and make the changes.

Acting Chairman Calvo - Alright.

Genie Hampton - Thank you, you all have a good day.

2. Ana G. Ishmael - Inquiry into the disposition of property

Ana Ishmael - I'm just following up on the letter that I submitted.

Administrative Director Garcia - Basically what she submitted is her husband Anthony has a land use permit and the brother John claimed it as his and somehow Chamorro Land Trust gave John the land lease agreement.

Acting Chairman Calvo - But the application is under her husband.

Administrative Director Garcia - The property under the LUP during Land Management's time and somehow John's name got involved and now he got the area that her husband was assigned.

Commissioner Leon Guerrero - Is he still alive or did he pass away?

Ana Ishmael - He passed away in August 26, 2006.

Commissioner Leon Guerrero - Did he apply right after his death for the same property?

Ana Ishmael - I'm pretty sure when that thing first came out he did apply but somehow I found another application in 2002 so I guess he went through it he even got a letter from the Mayor's Office a memorandum to the Commission that he was forced to vacate the place because Chamorro Land Trust Commission issued it to another applicant which was later found out that it was his brother.

Legal Counsel Lujan - Is his brother in the property right now?

Ana Ishmael - Yes, he has a ground lease.

Acting Chairman Calvo - And you want to re-stake that claim of your late husband.

Ana Ishmael - Yes.

Acting Chairman Calvo - Okay.

Legal Counsel Lujan - Was there ever a probate case opened at court?

Ana Ishmael - No but he did have an authorization to initiate in 2004 that was issued to him but then he was in and out of the hospital and then you know he was ill and then he just passed on.

Acting Chairman Calvo - Jess how big is this property?

Administrative Director Garcia - John had it surveyed it's an acre lot.

Ana Ishmael - But he had been there since 1980.

Commissioner Leon Guerrero - Did he leave you as an heir to this property?

Ana Ishmael - I'm not sure.

Commissioner Leon Guerrero - So the application was just his name.

Ana Ishmael - Yes.

Acting Chairman Calvo - You know the problem that I see here Legal Counsel is her husband didn't leave any legal heirs to her and quote me if I'm wrong the Chamorro Land Trust rules and regs it's binding 180 days for her to apply for it. And that's why you brought up the issue was there any court probate because this one could be a challenging issue because your husband, that's his brother right that's in there right now.

Legal Counsel Lujan - When did the land use permit expire that allowed your husband to be on the property?

Ana Ishmael - I know that he's been there ever since but then when they I guess put a moratorium on it but he's occupying it ever since and he's been ranching there.

Vice-Chairman Matanane - Has your husband been ranching that place?

Ana Ishmael - Yes.

Acting Chairman Calvo - Before he, before your, I'm assuming that's your brother in law.

Ana Ishmael - Brother in law, yes.

Legal Counsel Lujan - Was your brother in law also ranching on the property too?

Ana Ishmael - No he was never there.

Vice-Chairman Matanane - Was it surveyed when you guys applied for the land use program? Was it surveyed when your husband applied for that land use program?

Ana Ismael - They issued it to initiate the survey due to his illness he was in and out of the hospital until he passed.

Vice-Chairman Matanane - But it was never surveyed.

Ana Ishmael - It was never surveyed.

Acting Chairman Calvo - But at any given time did your husband ever gave you, gave permission to your husband. See that's an arguable point, that the problem here I foresee here is he did not deed you the piece of property under your name and this kind of issue is his brother has staked claim to this piece of property. But even if you did it would have to go to court probate because I think it should be more qualified.

Ana Ishmael - But see we have children.

Acting Chairman Calvo - It even qualifies her more because she's got kids. So in reality I think she should have first option to that legal counsel right?

Legal Counsel Lujan - Well the Chamorro Land Trust statute already discusses who takes over the application rights. In this case all we have is an application but there was a land use permit given. My question is when that expired.

Administrative Director Garcia - This land use permit is under Anthony not John. The land use permit is under Anthony not John, John claimed it.

Acting Chairman Calvo - So we're okay with that.

Administrative Director Garcia - But what it is, is the Chamorro Land Trust Commission had already issued John a ground lease.

Legal Counsel Lujan - But that is based on this information that could be false.

Vice-Chairman Matanane - Do we have John's folder and we got to take a look at that folder.

Administrative Director Garcia - Maybe what she can do is just stake her claim and table it for the next meeting.

Vice-Chairman Matanane - Yes and then we have to look into John's and who approved his well maybe the Director but did he come in time in the 180 days when he came in and claimed?

Legal Counsel Lujan - He applied for it while I guess the husband's application was still pending.

Administrative Director Garcia - During the typhoon he claimed it as damaged and I'm pretty sure that's how he got it.

Ana Ishmael - Well my husband also I do have copies that he did claim it under the FEMA.

Administrative Director Garcia - I'll get the file of John.

Vice-Chairman Matanane - I think we should break out his folder, John and how did he acquire. Did he put in a statement? I believe your husband was still alive when he got that property.

Ana Ishmael - Yes but at the time he was fighting for it but I think he just went and got it.

Vice-Chairman Matanane - He has not passed away and John got that.

Ana Ishmael - No he didn't pass away when John claimed it I think.

Vice-Chairman Matanane - He did pass away? After he passed away?

Administrative Director Garcia - February 2006 is when they did an addendum.

Ana Ishmael - And he passed away in August.

Vice-Chairman Matanane - When did John get the property?

Ana Ishmael - 2006.

Administrative Director Garcia - Even before the brother passed away he got the lease.

Vice-Chairman Matanane - Why didn't Anthony or yourself ma'am didn't come in and protest to that?

Ana Ishmael - He was sick.

Vice-Chairman Matanane - I wonder what is in John's application. I think we should table this we should take a look at it, research it and find out.

Administrative Director Garcia - If I get a copy for the board meeting I'll have it.

Acting Chairman Calvo - What we'll do on this Ann is we're going to go back and look at both applications. I guess Mr. Garcia will be contacting you on what the issues are, okay.

Ana Ishmael - Okay thank you.

VII. DIRECTOR'S REPORT

Administrative Director Garcia - Last Friday I issued out a memo to all the employees regarding the attendance and stuff like that of the employees of the Commission. It's all taken out of the personnel rules and regulations so I decided that. You know it's different when I ran a big agency you have a 100 people, 1 is missing you know it's fine nobody would know. If you're running 11 people and 1 is missing everybody knows so that's the difference but I had to put it out because it's a great concern of the operation that I'm doing at the Land Trust trying to get everything straighten out. When somebody is missing I can't get the information until that person comes back. So that's what I'm dealt with and kind of frustrated at times so I put this memo out to cover us and the Commission and then I'll take appropriate actions that I need to with the employees.

Acting Chairman Calvo - But you know Mr. Garcia I'm glad that you wrote these things out because you know there are a lot of things that you as the Director there should be doing more better things than to do a lot of work on your own. As far as the workers that are working there I mean if they really love their job then they would come to work with full heart on their jobs. I for one as the Chairman I've come many times down there and I'm not going to lie to you guys I'm disappointed and I told the Director this has to stop, it has to stop. Now whether they agree with it that's their problem. But I can't see my Director doing all the paper work, legwork when he needs something. Even myself as the Chairman come there try to help and assist him okay. I shouldn't be doing that but I come down there most of the time to try to find out what's the problem with this and so forth. Where's the other employees, I don't know okay. But we definitely are going to have to resolve these issues. I did tell Mr. Garcia that we need to get these things done. Now there's an old saying you either shape up or ship out and you choose which way you want to go because it's not going to be tolerated at least not to my sitting here as the Chairman and I don't know how you board members feel. But we can't go continuously this way and for one, two or three employees working their butts off and other employees just and we've been criticized by medias and public opinions and so forth okay so just imagine when we get criticized it hits you all around. I mean I've gone out there many of times so they just have to be buckle up and if they didn't you know resign. Because it's not fair for other employees and especially for the Director himself and I did instruct Mr. Garcia on this issue I said it can't go anymore you know. Because even me it just irks me sometimes I just want to blow up. And I'm assuming they all understand this Jess right, they all initialed it.

Administrative Director Garcia - Yes the only one that didn't sign off on it is Kimbo Lujan is on sick leave and Desmond Mandell and Mr. Mesa is on leave and he'll be back on December.

Acting Chairman Calvo - Well whether they're on leave or not but it's not going to go anymore. I'm not going to put up with this crap anymore I don't care how they feel. But I'm

just letting you guys know too because we get criticized everyday whether it be on the news on the TV on the media anywhere. I'm not saying they're not good employees but in order to be good employees they got to showcase too that you're a hard working employee. If you need to go someplace for sometimes okay but like Jess said you know when I was superintendent for GTA I had 55 guys on mine and like what he said if I miss 1 maybe it's okay. But when we have 11 and 5 is gone it's a ghost town you know. So it doesn't work that way. I don't know how you guys work but to me and it's not fair to the other employees.

Administrative Director Garcia - Well I should have that thing taken care of already. I'll just take appropriate steps that I need to do with the employees. Next week I'm slated to move our office up to Dept. of Public Works. We're going to start the move Monday but officially we'll be up there by December 1st because of the lease agreement. James Diaz has already put notice into the paper of our move and I think probably by Monday or Tuesday I should be putting out a press release to the media to put it out on the radio so we're covered on our move.

Acting Chairman Calvo - Okay.

Vice-Chairman Matanane - What was the problem on the lease or we can't afford to pay or what, the current lease.

Administrative Director Garcia - The current lease is we haven't gotten money on our budget for the lease so I've notified our landlord that we'd be relocating and they agreed. We just need to pay up our obligations for October and November.

Vice-Chairman Matanane - That's the reason why we have a negative \$3,969 on the checking account?

Administrative Director Garcia - Yes that's part of it and what it is we're working with BBMR and GSA to get the move documents approved.

Vice-Chairman Matanane - And we did request for the rental on the budget?

Acting Chairman Calvo - Yes.

Administrative Director Garcia - The rental and the legal counsel fees.

Vice-Chairman Matanane - Was it approved though?

Administrative Director Garcia - It's ongoing right now.

Vice-Chairman Matanane - So you're asking for a supplemental then.

Administrative Director Garcia - Yes the problem with the new budget is we're only authorized 15% transfer authority which is really not much from what we got.

Vice-Chairman Matanane - All the reason Mr. Garcia that I was asking if you can write to well check with the Governor our excess funds you know the last fiscal year the excess amounts can we put it back for our office?

Administrative Director Garcia - We met with BBMR so that's what they're supposed to be checking, Oscar was with us.

Vice-Chairman Matanane - At least the excess can be deposited into our checking account so we can take care of the operational cost. Everything is budgeted right down to the teeth, employees everything else and we're using the checking account to pay for our operations. Why can't we just ask the Governor or the Bureau of Budget the excess account that we tapped this on and transfer it to our checking account so we can still operate? You know in essence looking at the checking account we shouldn't be operating because we're out. Only the payroll and whatnot that's in the budget we were using this as the operational fund and we're depleting it. I was wondering why we did have to transfer all those...(interrupted).

Administrative Director Garcia - That paid the power...(interrupted).

Vice-Chairman Matanane - I understand Mr. Garcia but see when it was depleting we were supposed to be asking for all the lapses, all the underfunded or under budgeted with our compared to our revenue that we have received and we should have taken that excess to fund the operational cost. You don't understand?

James Diaz (CLTC staff) - No I do understand but that was never the case I don't know where you got that information.

Vice-Chairman Matanane - No I mentioned our Director would have question that all along trying to go to the Governor to the legislature write them a letter that we need those funds. Of course you already budgeted us down to the teeth the payroll and whatnot on that particular budget but they didn't budget us for operations because we were working out of our checking account.

James Diaz - Actually Mr. Matanane that account was supposed to be shut down since 2006.

Vice-Chairman Matanane - True and if we had shut down that that thing would have been reverted back to the general fund right?

James Diaz - Yes we did give some money back.

Administrative Director Garcia - What happened here Mr. Matanane is BBMR submitted our budget in for us. The Commission didn't submit a budget I don't know for what reason that was before I came in, the budget was already prepared for Chamorro Land Trust it was prepared by BBMR. We tried to address it but they told us to just stand back and let it go the way it is.

James Diaz - Just to let you know for the record Jesse and I are having problems right now because a lot of the operations are being hampered by the department right now because a lot of these contracts and purchase orders were done against current procurement law and the biggest benefactor of that is the checking account. So actually it's a blessing in disguise that we shut that down. And just for your information BBMR did give us over \$240,000 last year from the excess and they deposited that into the appropriation not the checking

account. But when Mr. Delfin was the Chairman we always told him that sooner or later that account was always supposed to zero out.

Vice-Chairman Matanane - But right now it's showing a negative \$3,969.

James Diaz - I don't know where you're reading the negative. Right now we have about \$1,800 balance in there. We cannot be negative the bank will not allow that.

Vice-Chairman Matanane - So we still have a balance of \$3,797.

James Diaz - Yes that's the balance but that's down to like \$1,800 we paid a surveyor the other day \$3,000 so that went down considerably.

Vice-Chairman Matanane - Yes and I was looking at the expenditure of \$3,000 to Robert Ventura and that's the work that he had done for Chamorro Land Trust.

Administrative Director Garcia - That was a previous agreement, it was agreed between the previous Director and Robert Ventura to provide services to the Land Trust.

Vice-Chairman Matanane - I have been hearing from clients that Ventura has been paid through their negotiation and has not finished the job for the Chamorro Land Trust.

Administrative Director Garcia - There's two different ways they go about with the surveying. One is the Chamorro Land Trust contracted Mr. Ventura to do work for the Land Trust and some of the other cases are these lessees get survey authorizations and they go out and source surveyors and Robert Ventura survey for them. So that deal is between them and Robert not between Chamorro Land Trust and Robert.

Acting Chairman Calvo - So whatever client made a lease with Robert that's but in this case it was Chamorro Land Trust that made the initial agreement with him to do a certain kind of work.

Vice-Chairman Matanane - But this particular client is also a Chamorro Land Trust client.

Administrative Director Garcia - Those are the ones that are issued the survey authorizations that's on their own. That's why I'm saying the Chamorro Land Trust if we give out property the Chamorro Land Trust should survey it and then give it out not give to the client and have the client survey what they want and then they give it back to us to approve. That's what's happening that's how it's being turned out. The way it should be done is Chamorro Land Trust surveys the property and then gives it out.

Vice-Chairman Matanane - I see there some disparity on that because we tell this particular client to go out and find your survey and it so happens they hired Ventura and here the Chamorro Land Trust is also paying out for a survey.

Administrative Director Garcia - But it's a different piece of property.

Vice-Chairman Matanane - But it's still Chamorro Land Trust.

Administrative Director Garcia - Yes but what I'm saying is Ventura was issued a surveying agreement services for Lot 100 and this other guys lot is lot 300 so...(interrupted).

Vice-Chairman Matanane - But this particular guy is a recommendation from Chamorro Land Trust to go and procure Mr. Ventura.

Administrative Director Garcia - If that's the case I would like to see that guy. Have him see me so I can figure it out.

Vice-Chairman Matanane - At one point in time you guys had all the cards of the surveyors and every time a client comes in just go and find one of the surveyors here on that particular card. So this particular person took that card and hired Ventura and made a deposit, half...(interrupted).

Administrative Director Garcia - That's a private deal.

Vice-Chairman Matanane - I understand but its still Chamorro Land Trust. But what are the cases that Ventura is handling where Chamorro Land Trust is hiring Ventura to survey Chamorro Land Trust property?

James Diaz - I know what you're saying Mr. Matanane and that's true. For your question we know what's going on but the proper entity to put those guys in place is the PEALS. The Land Trust has no authority to convene and discipline him. The bigger question is you know the prior Directors how they dispense you know like they actually agree to pay for some of these client's survey. That's the bigger question because you know if they're going to dispense to one individual they have to give it to everybody but it was pick and choose. That's the big issue. Just to let you know to reiterate again there's going to be things coming out soon because a lot of the procurement laws have not been followed in our department and it's going to come to a head in the coming days so we're going to be under fire again. But we cannot discipline Ventura. We encourage the clients complaining to go to the PEALS. But you're right people have been complaining but at the same time we ourselves hire him. So I see what you're saying but the bigger picture like I said is it's not fair that we pick and choose who to pay for and on the average we tell everybody to go and pay their own. And on some instances we go ahead and pay taxpayers money to provide for one individual survey that's not fair.

Vice-Chairman Matanane - Thank you James for making that clear because that's where I'm getting at.

Administrative Director Garcia - Anyways the way the Chamorro Land Trust should be distributing the land is first you come up with a plan a conceptual plan of what you want to do and then have it surveyed as to the plan and then get the qualified applicants through the process the way it's supposed to be done through numerical order of the applicant and then start giving it out. The way it's being done before I came in is anybody that's qualified from 1995 to whatever they just pick anybody's name and say hey you want to survey, survey the property and pay it yourself and then give me a copy of the map. That's the way it's being done now. To me that's not the proper way so I'm trying to put it in order. Just to let you know tomorrow I have a meeting with UOG, Joann Brown regarding the MOU on the report the first report that they're going to issue to us regarding the inspections they've been

doing and then from there we're going to take it to the next step with the Board members to take appropriate action to I guess figure out how we're going to get this Commission running the right way. I have all that planned that's what I've been working on.

Vice-Chairman Matanane - You know the previous Director had a project of 300 lots that's been subdivided and all that.

Administrative Director Garcia - It's up in Yigo?

Vice-Chairman Matanane - Yes what's happening with that?

Acting Chairman Calvo - What lot number is that?

Eileen Chargualaf (CLTC staff) - Lot 7160.

Administrative Director Garcia - My understanding with that is half of it has been completed the other half is still pending, there's phases, phase 1 and phase 2. Phase 1 is pretty much completed with the survey but infrastructure hasn't been put in, lots were given out. Phase 2 is not completed yet with the survey.

Vice-Chairman Matanane - How many lots is that?

Acting Chairman Calvo - That's going to be given out as half an acre right?

Administrative Director Garcia - It should be half acre lots.

Vice-Chairman Matanane - If it's half an acre then they probably have to put in cesspool themselves right? If they want to live in it right?

Administrative Director Garcia - It has to meet the EPA solid waste disposal.

Vice-Chairman Matanane - Because if it's more than that then we need to have the infrastructure.

Administrative Director Garcia - But still when we give out the lands too from the Chamorro Land Trust we need to make sure that we're giving it to them with the water, the power and roads. Right now we're giving them and there's no road, water or power.

Acting Chairman Calvo - I think that meeting that we're having with UOG tomorrow with Jess and you guys are more than welcome I think a lot of the issues that would be solved in what the findings that we have found because we had the EPA involved in this, the Public Works, Public Health, Agriculture, I got all these agencies to get involved so they wrote up a lot of discretion on what are the issues that we have there. So when we set that that's one thing that I told them I want all the agencies so that way if the Senators or anybody wants to say you know we have the report from Public Works how come this person got power but they did not meet the requirement of the building code or the EPA. Trust me I've seen some of it yesterday and a lot of guys are going to be disappointed but that's okay. They are not going to like what we're going to do once we present this. But Jess and I have been working on this issue with UOG and really has worked together with package with Joann

Brown and Bob Barber. So we gathered all this information and that's going to be and how like what Mr. Garcia said how we are going to approach the issue.

Commissioner Leon Guerrero - The lots that you're talking about in Yigo you're having them surveyed you said there's phase 1 and they've been surveyed right. So when an applicant comes in and let's just say you designate a lot for them do they have to resurvey that again?

Administrative Director Garcia - As a matter of fact I just came up with a draft SOP from the time an applicant comes in to apply to the time he's issued a lease. Terese is going over it right now but I've pretty much came up with an SOP I'm just having Terese review it and put in whatever comments.

Commissioner Leon Guerrero - No but does the applicant still have to survey the property on their own?

Administrative Director Garcia - If it's going to be my way no. We're supposed to actually hand it over to them ready to go.

James Diaz - A lot of these surveyors are not recording with Land Management.

Commissioner Leon Guerrero - So that's the reason they have to do it.

James Diaz - The only reason why they have to resurvey it is because when they go in and they build the bank would have to see it severed and also when we give them the lease there's no more a portion of it has to be a specific lot.

Administrative Director Garcia - Exact lot number, area size and map number all approved by Land Management.

James Diaz - Some people are building now so it's more in depth now not like before.

Administrative Director Garcia - You'll see the product as soon as I put it together with Joann Brown's information and the ones that I've been putting together.

James Diaz - I'm not sure what this 7160 because I don't know where the money is coming from because I don't have money to pay for the surveying.

Administrative Director Garcia - But there's an existing project of Chamorro Land Trust.

James Diaz - So the client's pay for that?

Administrative Director Garcia - I don't know that's why I need to get the inventory complete.

James Diaz - I didn't pay for it and we don't have money I can tell you right now.

Commissioner Leon Guerrero - So there is no phase 1.

Administrative Director Garcia - No but if you look at the plans there's a phase 1.

James Diaz - It could be where the clients pay for it. But you know I advised prior Director that these piece meal surveys is not the way to go. The reason why we're having problems is we're supposed to provide for a planned unit development. We're supposed to have a tract but right now what's happening is you survey here and you survey there and then sometimes they don't meet and sometimes they overlap. Even back then with the Land Management system it was common laid people you know the land agents. Now it's professional land surveyors and guess what it's still the same. One is overlapping, one is missing, one is gone. It's really hard you tell one surveyor you shoot here to there, you tell the other there sometimes they don't meet sometimes they overlap. It's really bad but you know the Commission needs has to identify money too because we need to survey these lots and give it out not force the people to provide for their surveying and then comes the problem like what Mr. Matanane is saying some of these surveyors that we're finding out now are not all above board. I know there is already one that's been disciplined by PEALS I think even suspended. So I know there's a lot out there and it's really sad.

Administrative Director Garcia - But even the way the process of an applicant getting the land it's supposed to be first come first served. If you look at the way with the analysis I did with the applicant files that we have it wasn't done that way. So it's broke that's why you have that bypassed listing where these guys are coming in without being processed but their name is number one, two, three, four, five you got number two-hundred being processed before one, two, three, four, five. So that's why I've really been reviewing these things. Each case is unique there's never a case that's pretty much the same. It's all different stories even the way of how they were processed to get the land. It's really hard but you know it's coming through. Hopefully I can come up with a final report for you guys.

Acting Chairman Calvo - Okay. Legal Counsel we will get that you said it's pretty much done deal right?

Legal Counsel Lujan - The review yes.

Acting Chairman Calvo - Okay maybe we can meet with Jess next week before we finalize or whatever has to be done because I really like to get this done before the end of the year.

Legal Counsel Lujan - Tomorrow I'll be forwarding it to Jesse and then we can meet afterwards after you've reviewed it and any comments you have regarding it.

Acting Chairman Calvo - Okay.

Vice-Chairman Matanane - How about we were going to discuss the penalties. Not necessarily the 10% but we can always reduce that if you guys come to an agreement.

Legal Counsel Lujan - I wasn't able to look into that but...(interrupted).

Vice-Chairman Matanane - I mean it's pretty straight forward that receivables that you have you would have to some sort of regulations not to entice them to keep on doing it but to deter them from not going behind. The whole purpose of that penalty and interest is not for them to get behind. So my suggestion was a 10% and a 6% interest but that's not put in

stone yet so you guys got any other comments if you want to reduce it and then we come to a consensus.

Administrative Director Garcia - Well when she gives it to us it's not the final, she's giving it back with her comments and then we got to go through it with the board and finalize it.

Acting Chairman Calvo - We just got to set a precedence to that though what percentage we actually can be fluctuating with the interest. We got to make it standard regardless of what the case or situations are.

Administrative Director Garcia - We'll get the report on what you recommend.

Vice-Chairman Matanane - And there's also a minimum and a maximum.

Legal Counsel Lujan - Regarding the interest the Commission has the discretion to go within what's legal but counsel doesn't set it. It would of course the Commission's, it's policy.

Acting Chairman Calvo - Yes okay.

Vice-Chairman Matanane - We can go also on the penalty we can have a minimum and a maximum.

Legal Counsel Lujan - That would be a way for the Commission to have some kind of discretion but also some uniformity.

Commissioner Gumataotao - UOG's MOU that's only for one year right?

Acting Chairman Calvo - Right.

Commissioner Gumataotao - So they're up for renewal December, January timeframe right? Because I think it's almost time for renewal.

Acting Chairman Calvo - It's an option for us we don't have to renew it but let's see what we can get out of this all the information.

Commissioner Gumataotao - Because you guys mentioned that you are meeting them tomorrow right for a report and would the other Commission members be able to review that report before...(interrupted).

Acting Chairman Calvo - Oh yes definitely that's why I said if you guys want to come tomorrow it's up at UOG at 3 o'clock.

Commissioner Gumataotao - No but the actual report.

Administrative Director Garcia - No that's not they're just going to talk to us about what's going on.

Acting Chairman Calvo - And then the report will come.

Administrative Director Garcia - What it is is when the final report is ready they're going to let me know we're going to call a board meeting and then submit it and present it to us.

Acting Chairman Calvo - What actually tomorrow is basically what are their findings and what are they going to put in a package deal.

Commissioner Gumataotao - Can I just ask in the report can you request for them to do a breakdown of the money that was spent as well for that program?

Acting Chairman Calvo - Oh we can do that yes.

Administrative Director Garcia - It's like a quarterly report.

Acting Chairman Calvo - I think that was broken down right James?

James Diaz - Just on the original.

Commissioner Gumataotao - No it was in the MOU what they were going to use the moneys for but then actual numbers of what they spent on that program that we paid for. Can you ask them to put that in the report?

Acting Chairman Calvo - I sure will Pauline.

Commissioner Gumataotao - Thank you.

VIII. EXECUTIVE SESSION - None.

IX. ADJOURNMENT - Meeting adjourned at 2:45pm

Transcribed by: Teresa T. Topasna: Teresa Topasna
Date completed: December 7, 2009

Approved by Board motion in meeting of: Dec. 17, 2009

Administrative Director, Jesse G. Garcia: _____
Date: 12-17-09

Chairman (Acting), Oscar Calvo: _____
Date: 12-19-09