



Kumision Inangokkon Tano' CHamoru *(CHamoru Land Trust Commission)*

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12/13/2019

COMMISSION REGULAR MEETING

Department of Land Management Conference Room
3rd. Floor, ITC Building, Tamuning

Thursday, November 21, 2019, 1:12 p.m. – 5 p.m.

Public Notice: The *Guam Daily Post* on November 14, 2019 and November 19, 2019

Commission Members

G. Pika Fejeran
Chairwoman

Joseph I. Cruz
Vice-Chairman

Amanda L.G. Santos
Commissioner

Austin J. Duenas
Commissioner

Shawntel L. Techaira
Commissioner

Jack E. Hattig III
Administrative Director

I. CALL TO ORDER Reconvene Recess from November 21, 2019 meeting

Chairwoman Pika Fejeran: I really like to recite the Inifresi to reaffirm our role here in the Commission yes, the Inifresi is in CHamoru but if you understand, what it's talking about it's about the land of Guam. That is what this program is all about. The land the air the water all of it so. I appreciate everybody reciting it

II. APPROVAL OF MINUTES

Chairwoman P. Fejeran: Okay moving down the agenda approval of minutes. We were presented on November twenty-first the June twentieth, 2019 regular meeting minutes however, it was decided that since the commissioners that were present at that meeting, only one of the...only two of us have been present at the meeting. It was tabled until the third commissioner that was present at that meeting could be involved in the passing of the minutes. Unfortunately, Mr. Duenas is not here. I would like to request that the June twentieth, July eighteenth meeting minutes be tabled until such time that Mr. Duenas is back and provides his input on the meeting minutes. Is the Commission okay with that?

All Commissioners: Yes.

Chairwoman P. Fejeran: Okay also I see on the agenda August fifteenth regular meeting. I have not received a copy of that. Has that been disseminated?

Administrative Director Jack Hattig, III: Not the actual printed version Madam Chair but it was sent to the Commission via email commissioners.

Chairwoman P. Fejeran: You know some of us do not have regular access or printer access so we would need the printed copy.

Administrative Director J. Hattig, III: Yes ma'am.

Chairwoman P. Fejeran: I would like to table August fifteenth meeting minutes. Is the Commission okay with that?

All Commissioners: Yes.

Chairwoman P. Fejeran: Please provide hard copies to everybody on the Commission here.

Administrative Director J. Hattig, III: Yes.

III. NEW BUSINESS

1. Commercial Leasing

a. Department of Public Works request for right of entry

Chairwoman P. Fejeran: Next item under new business commercial leasing Department of Public Works request November twenty-first. Again, because we were... we wanted the Director to go back and talk to Department of Public works for in kind services and what that would look like, so does the Director have an update?

Administrative Director J. Hattig, III: Yes, I do. Thank you, Madam Chair speaking with the Department of Public works I was able to and we were able to agree that re-opening easements that were previously open and overgrown is something that Department of Public works can do. I met with Director Arriola and he gave me his commitment to accomplishing that. We also began a discussion on what we can do to open up virgin territory, new openings or easements and more regulated for illegal dumping and so we began the dialogue that involved mayors and other partners so that we can get those open. Also, I met with the Chief Engineer and we discussed an opportunity to provide access to Oka Point so that I can give that to the Commission for review in exchange. So, those are the three things that I had talked about concerning right of entry.

Chairwoman P. Fejeran: Okay and recap for Mr. Cruz who was not here at the November twenty-first meeting. Can you just recap what this request is?

Administrative Director J. Hattig, III: So, this request right here is for...I have here the right of entry agreement sent to me from DPW, and it is to enter Lot 5173-1-R2New-R4 which is Oka Point to utilize the property as a temporary contractor staging area for the resurfacing of Chalan San Antonio or Route 14. That was the request from DPW.

Commissioner Joseph Cruz: Why are we addressing R6?

Administrative Director J. Hattig, III: That was originally what was put on, they clarified it with what they submitted.

Commissioner J. Cruz: Is Public Works doing the work for these services or ****inaudible****?

Administrative Director J. Hattig, III: It is the contractor that is doing it so, we're giving Public Works the right of entry contract or agreement so the contractor can utilize it.

Chairwoman P. Fejeran: Or you are presenting to the Commission to approve a right of entry?

Administrative Director J. Hattig, III: Well that is what was presented to me and I am forwarding it to the Commission.

Chairwoman P. Fejeran: No decisions have been made on this. It was the first time presented to the Commission.

Commissioner J. Cruz: So, they're using the leverage of opening our easements in lieu of utilizing the site for construction.

Administrative Director J. Hattig, III: For a period of one year.

Commissioner J. Cruz: Okay. Now, is not Public Works mandated to do that, clearing of easement? Opening of easement? Because it is no different than the mayor asking to open easement.

Administrative Director J. Hattig, III: I have a representative from Public Works if you would like to hear from them, the Chief Engineer.

DPW Chief Engineer Masoud Teimoury: Masoud Teimoury, the chief engineer from Public Works. As you know Route 14 requires commercial intensive staging.

There are no other areas for the contractors to have a lay down for the equipment or the material. We do appreciate the time and consideration that this board will give us hopefully so we can get this important project worthwhile for the Guam community to begin and the Director has been kind to talk to us and we are more than happy to reciprocate this favor and in any practical and possible way.

Commissioner J. Cruz: The favor that you are trying to ask CHamoru Land Trust is opening our easement to Public Works?

Mr. M. Teimoury: Yes, in addition we would like to offer whatever within the means.

Commissioner J. Cruz: Okay but the offer that you are asking is already mandating Public Works for clearing. So, if we are using that as a leverage, what's the CHamoru Land Trust benefit from it?

Chairwoman P. Fejeran: So, sorry...

Mr. M. Teimoury: The benefit of...the benefits could be, I have with me Karen from right of way section. The benefit would be, first of all we would provide and maintain and remain the utilities that the contractor will have to apply for and use for ****inaudible**** and that I believe would be a plus. In addition, we can help CHamoru Land Trust as we have done in the past you know, clearing the lots that during Dengue Fever we've been with limited resources along Swamp Road that...we can do many, many other things that within reason within our financial capability that would benefit CHamoru Land Trust.

Commissioner J. Cruz: Have we identified the total mileage or the total width of the easement we are ****inaudible****?

Administrative Director J. Hattig, III: We're identifying these ten properties. I know I sent a draft of a memorandum of understanding or memorandum of agreement and we're concentrating on the ones that have been overgrown and we're identifying ten within a 180-day period and we would like to get them open...

Commissioner J. Cruz: So, you don't have a hard-set data of how many miles and what width and what kind of improvement...

Administrative Director J. Hattig, III: Not yet.

Commissioner J. Cruz: Is it just a coral base? Is it a... because I know it's Public Works is now paved down in Mongmong. That is part of an improvement, but CHamoru Land Trust, what are we banking on Public Works?

Chairwoman P. Fejeran: I just have a question that you brought up Mr. Cruz. You mentioned DPW is required to open easements, for the Government of Guam already, is that right? Are you able to talk about that requirement?

DPW Rights of Way Section Karen Charfauros: No, DPW federal funds will pay for rerouted roads but the secondary roads are up to the prevue of the mayors.

Commissioner J. Cruz: Any federal funds being used for this offering to CHamoru Land Trust?

Ms. K. Charfauros: No.

Commissioner J. Cruz: No?

Ms. K. Charfauros: This would be done with local funds.

Mr. M. Teimoury: ****Inaudible****

Commissioner Arlene Bordallo: Can I ask a question on the private company?

Ms. K. Charfauros: It's going to have to be a private company

Commissioner A. Bordallo: Because normally the private company would ****inaudible**** you know...

Ms. K. Charfauros: That...

Commissioner A. Bordallo: Because I have come across...

Ms. K. Charfauros: This project Route 14 is a federally funding project and it is up to DPW for the staging area for this project. This is DPW's purview.

Commissioner J. Cruz: So, we did refuse Black Construction for the reconstruction of Route 3 there is no different than what you guys are asking but Public Works will show us, but it was Black Construction representative who came in and ask we're asking to provide us a simple clearing for the lot that's going to be used but they decided it's too expensive. So, for you to come in and use a right of entry to utilize CHamoru Land Trust, and use the bargaining table of the mandate that Public Works is authorized to open and clear easements?

Mr. M. Teimoury: We can also use the area that you are going to be hopefully utilizing as we mentioned previously on that the other contractor didn't do and doing our own done per say. Locally and by our own we can take care of that. So basically, we need your help your cooperation and in return whatever in reason we can offer.

Chairwoman P. Fejeran: It sounds like you mention utilities to be installed by the private contractor. Is that the lay down area, is the staging area?

Mr. M. Teimoury: Yes, ma'am

Chairwoman P. Fejeran: Okay, that is different than what was presented at the last meeting.

Mr. M. Teimoury: It was just something that to make sure to recognize the fact that we are doing all this in spirit of our cooperation on behalf of DPW. It would be a win-win situation in my opinion to share that.

Administrative Director J. Hattig, III: I had the meeting with Mr. Masoud after ****inaudible**** the original request. Again, I can present.

Chairwoman P. Fejeran: This is an update?

Administrative Director J. Hattig, III: I can present an update.

Commissioner J. Cruz: This document does not reflect any acreage. If I were reading this, a right of entry could just be a ****inaudible**** but this one you're saying that utilize the property as temporary contractor's staging area but how many acres?

Administrative Director J. Hattig, III: I had quoted that in the initial response for a one-acre portion, but again you know with regards to Public Works being here they provided some additional...

Chairwoman P. Fejeran: Additional information.

Administrative Director J. Hattig, III: Information.

Chairwoman P. Fejeran: I think what...I'm really glad you guys are here, because what the Commission is doing is trying to catch up and figure out hey what are you asking for what could we potentially get from this we had this the first time we're being presented with a lot of this information What I'd like to see is a real proposal from Department of Public Works.

Mr. M. Teimoury: Sure, we can do that provide in writing...****inaudible**** but basically, we have on this map shown the area which we are proposing and...

Administrative Director J. Hattig, III: That is different from our discussion or from my original proposal because the discussion afterwards.

Chairwoman P. Fejeran: I understand you are...change and progress as we look at it more, so...

Mr. M. Teimoury: The proposal also provided the ****inaudible****.

Chairwoman P. Fejeran: Do you have a copy of this?

Administrative Director J. Hattig, III: No, after our discussion they were supposed to provide me with it, but they provided it today.

Commissioner J. Cruz: It looks like they are using former parking area, right by Public Health and there is no topo on this as to set the property how is this going to be affecting ****inaudible****.

Mr. M. Teimoury: If it is a parking area, primarily poses it's to a greater extent the lot ****inaudible****, a lay-down area cannot be too much of a topography so we must make sure it's also usable for not only for our ****inaudible****.

Commissioner J. Cruz: Just this side?

Mr. M. Teimoury: If I am not mistaken ****inaudible****.

Administrative Director J. Hattig, III: That is an access point right here.

Commissioner J. Cruz: I understand that, but you are not coming down from the area.

Mr. M. Teimoury: Of course not.

Chairwoman P. Fejeran: What is your timeline?

Mr. M. Teimoury: The construction period, is, as I understand... it would be six hundred days plus. So, we would appreciate it if we could have two and half to three years of access and if there are any issues and in doing the work, we won't be coming back asking for extension for...

Chairwoman P. Fejeran: Yeah, but I would appreciate that I have a...

Mr. M. Teimoury: Let us say, two or three years I think the condition are written there but I'm not sure how that version is ****inaudible**** but let's say just to be safe, two to three years.

Chairwoman P. Fejeran: I just wanted to point out this property is one of the properties that was identified by the commercial leasing process. It is sitting in our bank of properties ready to be, I guess gone through GEDA as a proposal for commercial lease. I do not know if you know that, but it was one of four properties, or one of six that we were able to get through which needs to be commercial leased. It sounds like a lot has changed, at least from the first presentation, Director Hattig has presented at the last meeting. What I would appreciate is the very detail in-depth concrete description of what your requesting from the Trust, what the project entails. Commissioner Cruz mentioned, to me right of entry you can go in and pass through etc., but this is, this looks like it's still called a right of entry but you're going to be doing a lot of clearing in there and install utilities so, I would like to really understand what you are asking of us.

Mr. M. Teimoury: Sure.

Chairwoman P. Fejeran: Of the Commission.

Commissioner J. Cruz: The vegetation going to be cleared here?

Mr. M. Teimoury: The, in the immediate area where ****inaudible**** I am sure we have to do something...you want to add anything?

Ms. K. Charfauros: Yes, this is going out to the in short ****inaudible****.

Mr. M. Teimoury: ****Inaudible**** your assistance, your cooperation to this project, I have a date here.

Ms. K. Charfauros: The project is ****inaudible**** right to enter.

Chairwoman P. Fejeran: How long have you known about the project?

Mr. M. Teimoury: We have known about the project for a...

Ms. K. Charfauros: A few years. Yeah, we have been working...

Chairwoman P. Fejeran: Well you are coming to us at a...

Mr. M. Teimoury: ****Inaudible****.

Chairwoman Fejeran: At this last-minute thing and you have to understand we have our own interest that we have to protect with the properties.

****PBS Audio CD is inaudible (skips and freezes) from 20:40 to 36:07**

Chairwoman P. Fejeran: Director, I think you need to identify ten properties to be opened.

Administrative Director J. Hattig, III: Yes, it is a start.

Chairwoman P. Fejeran: You know I appreciate you trying to do that but at this point you really need to be transparent with this and for me. You are going to go back and look at maps and determine where to open them up that doesn't sound very transparent to me. For you to put together a proposal and perhaps a program to that you will administer to make sure that these that are identified to be opened up and they will benefit the most leaseholders they're offering to open up because we don't want to a 1/3 of an easement. How are we going to identify, how is it going to benefit and then also when we open up easements? We know there is a lot of public dumping and they see an open road in the jungle and they are going to go down there and they are going to dump their trash. So, if these easements are opened up, how are we going to protect them? Because we cannot just open them up and we are going to create another dumpsite in the jungle. I want to see a very comprehensive plan on how we are going to use their services to the best benefit of our leaseholders and future lease holders.

Commissioner J. Cruz: You mentioned ten you can identify, or you mentioned ten you are going to proposing to identify.

Administrative Director J. Hattig, III: No, what we are trying to identify and that's why we haven't thought of...

Commissioner J. Cruz: Any idea...you have not identified yet...

Administrative Director J. Hattig, III: We are still conducting our...

Chairwoman P. Fejeran: You know it be very useful, I believe you were in three different villages talking to our leaseholders and people in our program. It would have been very beneficial if you were out there asking them who doesn't have access, sign up here if you want to petition the Commission to choose your easement to be opened. I am talking about involving are leaseholders access come forward and say hey you know me and everybody in this lot you don't have access, so I want you to have...

Administrative Director J. Hattig, III: We are working to conduct those site inspections now to provide you with the information...

Chairwoman P. Fejeran: Okay, I do not think I mentioned site inspections. I would like to see a comprehensive program for how you are going to identify these...if you need site inspections to then...

Administrative Director J. Hattig, III: We need to go out to the area. We need to take a look at the...because maybe like I mentioned before the easement have been opened before. Maybe to what extent it needs to be, that's another condition, you said to what extent is the condition of the easement and can they do it, visual that's what we need to do we need identify visually, so...

Chairwoman P. Fejeran: You know that is not what I am asking, I don't know maybe the Commission has a better idea, but I...

Commissioner J. Cruz: ****Inaudible****.

Chairwoman P. Fejeran: I would rather hear it from our leaseholders. Why are we going to send our already overworked staff already having them go out and

try to figure out okay yeah this needs to be opened when the people over there they don't they're not ready to build access why are we going to...

Commissioner J. Cruz: Another option is that they can use, these agents go out daily, constantly, and they would know which road needs to be open.

Chairwoman P. Fejeran: Yeah.

Administrative Director J. Hattig, III: But...

Commissioner J. Cruz: By getting their input, you can identify the site by subdivision by tract, by location. Why duplicate that inspection if they already went out.

Mr. M. Teimoury: Also, if I may add I'm in agreement with what the Director said earlier site visit, site investigation is necessary because just identifying papers unfortunately surveyors are used to be putting in an easement. Whether that easement is practical to be open for that topography. Land for anybody to access, we like to help, of course with our sister agency and yours. Department of Land Management is going to be really involved in this because in the past we have been in trouble by thinking we are in the easement but then we cleared somebody's property. It should not have been, they need to mark these easements, provide the ability of vehicles to travel through it. Can you benefit some lots as you mentioned so there should be some level of investigation before we go and mark some clearing areas that nobody can drive?

Chairwoman P. Fejeran: Yes, I agree. Site visits are...you cannot do anything without seeing what's good on the properties understand what the conditions are but my direction to the Director was put together a program so that we know that there's a very transparent and fair that would benefit the most of our leaseholders. I know that maybe there is twenty-five that we have identified when we go out and say okay, twenty-five, there is more than twenty. You know, so...

Commissioner J. Cruz: So is Land Management prepared to assist us in aligning this easement. Did you ask Public Works if...?

Administrative Director J. Hattig, III: We have cooperation...

Mr. M. Teimoury: They should. As you know...

Commissioner J. Cruz: But have they been contacted that this...

Mr. M. Teimoury: No.

Commissioner J. Cruz: This what we are proposing for this right of entry.

Administrative Director J. Hattig, III: We have...

Commissioner J. Cruz: You are putting 80 miles of road and they need an alignment. All I am asking is are they in the same page with us. You are presenting a right of entry sign and acknowledge all terms and conditions is...did you say...

Chairwoman P. Fejeran: I think this is a good first discussion, I think there is obviously a lot of work that needs to be done...

Mr. M. Teimoury: Yes, ma'am.

Chairwoman P. Fejeran: On this side and, we need to get all the information from you guys.

Mr. M. Teimoury: Sure.

Chairwoman P. Fejeran: I am hopeful it will happen; it sounds like you guys have a tough deadline you are having to get so I am sure we will get that from you right away. I think, I know it will take a lot of work on the Land Trust side to make sure that, once we get this, and I hoping we will arrive at an agreement but we administered and identified of these easements in a fair way and as transparent as possible. Because I do not want a repeat history where DPW was going out

and clearing Barrigada Heights and that just very controversial because it was not done in an open and transparent manner. The Commission had no idea that DPW was doing this on our properties. I really want to avoid that. I am asking the Director to put together a program that is clear and that we can engage with our leaseholders. Okay.

Mr. M. Teimoury: You should keep in mind that there are asked to be opened and are not prone to issues that later becomes bigger issue. Once you clear aside vegetation, you are opening yourself to additional concerns that, you just must be ****inaudible**** work in the areas that possible, you know what I mean. Like one of the board members mentioned, hopefully doesn't require any of those bridges.

b. Guam Rocks, Inc. v. CLTC – Civil Case No. 1101-08

Chairwoman P. Fejeran: Thank you for coming. Alright, next on the agenda, Guam Rocks Inc. versus CLTC case number 1101-08. I am not sure why this is on the agenda. I guess Attorney Toft has an update or...

Legal Counsel Nicolas N. Toft: No, it is in litigation. There is really no comment.

c. Guam Racing Federation

Chairwoman P. Fejeran: Okay. Thank you. Next is the Guam Racing Federation. I know that we heard from Guam Raceway, last time November twenty-first, and we learned some things and we also asked that the agency go back and dug into the minutes and really figure out what is going on here. Thanks for coming back. I guess to catch Mr. Cruz up I know you are aware because you were here when we placed a moratorium on excavation and selling of the limestone, I think, excavated materials. We have been hit by an audit for years because there was no accountability to know the proceeds, we were getting from the sale of those materials matches what was taken out of the property. So, that was a moratorium. Director, do you have those minutes?

Administrative Director J. Hattig, III: I do have those minutes and I did review, and I did send a report to the Chair.

Chairwoman P. Fejeran: Can you present to us?

Administrative Director J. Hattig, III: Actually, I think I have them on my desk, let me...Pierce or Mel can you go up and I did have the minutes on my desk I am sorry I thought I put them in my folder. My report after I reviewed the minutes, I can concur that...

Chairwoman P. Fejeran: Let me see...

Administrative Director J. Hattig, III: In those minutes that I reviewed, it was correct that there was a moratorium on the mineral extraction on the area at the Guam Raceway, they are conducting their development.

Chairwoman P. Fejeran: Do you know what year this was?

Administrative Director J. Hattig, III: 2016 was the year that it was placed. Looking over the 2017 and all the minutes that we had with Guam Raceway, we did not see a lifting of that. Then on the November meeting that Guam Raceway did inform the Commission that it was performing that. Subsequently to that, I issued a letter to them to ceased as a result to the 2016 decision, they did come in to meet with me, and I did reiterate that and did give them the letter. At that meeting they said they were going to provide a proposal to continue or to provide that today. To continue their development on the project with all of the projections

that were projected to being from that kind of material and excavation and also moving forward for the...try to contact for the brand-new lease is as well as all going forward. I met with the Legal Counsel and Guam Raceway, and they should be here with a proposal to continue but as a result of that decision. I did issue a letter stating they should not be...and they have complied since from what I understand with our cease letter.

Chairwoman P. Fejeran: The Director was not here at the last meeting but I think Guam Raceway came and presented us, I guess, their masterplan, and also some permits that they received and it revealed this, you know I am sorry. It is frustrating that Mr. Cruz does not have a complete packet. This is not fair for him.

Guam Raceway General Manager Henry Simpson: What doesn't he have we can make a packet for him? I can make up a package for you.

Commissioner J. Cruz: No, I needed it yesterday.

Chairwoman P. Fejeran: Yeah, I needed it yesterday. Okay there, so there were two permits, one of them was for the excavation and filling. In which we spoke this last time they would determine they would have 1.7 million yards in excess sold. So, there is two. It came as a complete surprise to the Commission that the last decision on this activity was no more. There was a moratorium on it. I understand that Guam Raceway did fulfill what the Commission asked of them, but what we asked was for the topographic survey and the evidence that the materials taken out matches the payments to us. I wish we had the minutes here but I have reviewed the minutes and that meeting was thank you it should have been giving to us but we finally have it, thank you very much. There was never a lifting of the moratorium. Unfortunately, I believe this has happened more than once in our dealing with Guam Raceway, it was not understood, and you made your own assumptions and went out and got these permits, it is overly concerning, even down to the payments that to be made for events on the property. You pretend that no we do not have to pay you for third party events but that is like you are making your own rules here. It is frustrating, you don't have a lease with us. We said in the last meeting you provide a fantastic service for our island, and the safety of our island, it is definitely a need for what you are doing but you have to do it the right way. I do not think the Commission has ever had an opportunity really to review your plans and approve them.

Mr. H. Simpson: They were if I could answer. The plans were approved back in the year 2000, 2001 by the CHamoru Land Trust at that time. Twenty-two years we first started back in 1998, our first plans were drawn up in the year 2000 with the Duenas Camacho and Associates. We had extensive meetings with CHamoru Land Trust, extensive meetings with GEDA, extensive meetings with the government. In fact, it took us three years from the time we got our lease till we got our first building. All of these have been reviewed and approved in the very beginning and it would have come along the lines until 2007.

Chairwoman P. Fejeran: I understand the military and what I am saying is that today, the times we were presented the date on them 2016, I could be wrong but these 2016 plans do not match the 2001 plans, that you are saying were approved. Is that right?

Mr. H. Simpson: There were awfully close, they were modified. What has happened is I know that during that time we were under the government. What we told by Land Management basically at that time was let us do this area for green waste let's use this area for where you can extract. We could not build anything from 2007 to 2014. We did not know in 2014 whether we were going to

stay there. We applied for that permit in 2014, the CHamoru Land Trust and Land Management knew that we were applying for them and they signed off on it at that time. As soon as the moratorium was ****inaudible****, we went down to our plans again. It took from 2014 to 2019 to get that permit approved so, then there were two definitions that were confusing, one is mineral extraction, and one is grading. While we were with the military, we did what you technically call over excavation for mineral extraction because we could not build anything. We could not do anything but that was with the approval of Land Management and CHamoru Land Trust at that time. That was all done with the approval. Everybody was sitting there what are we going to do? Where are we going to go? First, in 2007, we started looking at Dandan, all over. No place to build a track by 2008. The plan's out there. When you say mineral extraction yes, we over excavated during those years but the idea of filling back but it kept us to pay the rent, it kept it open so we can have races, we can take care of the place. While this was going on. 2014 we applied for these permits, and the difference between mineral extraction or over extraction. Grading, natural grading were permits are permitted for to build the future track. Those are kind of two different things. In our mind we said ok no more over extraction no more anything to do with what is not on building the track. We did not take that as a moratorium to build the track. We took it as now we are not going to do that type of operation before we have a plan to move forward, were getting our permits, go for our long-term lease, get everything done.

Chairwoman P. Fejeran: I am glad you explained that because it makes sense to me. I appreciate you explaining that so, I really wish you would come to the Commission to clarify because that was not my understanding. My understanding was no more extraction and selling of the land. The selling of the excavated materials whether you are excavating or grading it, it is still material on CHamoru Land Trust property that you are selling. I know when I sat in that meeting it was noticeably clear that all that activity would halt, and you would come forward and the commission would decide again. You want to move forward, what are your plans, what exactly are you going to do? I am sure you were here when DPW was speaking and we asked them the same thing. That is exactly what you are doing on our property because you are changing it, drastically and like I said I do not think that plans have been approved at the commission level. We have residential lease holders; they must come in and show us building plans for their homes. The Commission approves those, so, to not hold you to the same standards to this huge piece of property would be very irresponsible of the Trust, so, Mr. Simpson I understand, you know, you had a different idea, but I am telling you today this was the Commission's idea, it is very concerning when we see this.

Mr. H. Simpson: We are following the guidelines here, that were approved by this commission here, not these people but this commission, years ago and has not altered very much and very small alterations that's been the same plan we've working on for twenty-five years. We are doing everything legal and we have all the permits, we have all the permissions we have tried to really do this, but it is difficult. Yet, like you folks, we are volunteers, we are trying to get it up to the point. You know this could really be a world class attraction for Guam, it takes all our help and participation to make it work.

Chairwoman P. Fejeran: Like I said the Commission had a very different position on that moratorium. Has any work for these permits been done, any materials sold, any excavated...?

Mr. H. Simpson: Yeah, there is a small amount where...did you get this Smithbridge letter I sent it to Jack and basically, they cleared the jungle off of four-acre area and a topographic survey. We are calculating it right now, there was small portion. Then we got the letter to stop so we could not do anything.

Commissioner J. Cruz: ****Inaudible**.**

Chairwoman P. Fejeran: 2006, yeah.

Mr. H. Simpson: We do not have that exact number so we can get that number for you. The area that we are trying to clear is between Jerry Cramer or PIC, owns that piece of property but next to it.

Chairwoman P. Fejeran: No, is it near the ****inaudible****?

Mr. H. Simpson: This piece right here to right here so what we are doing is clearing and down to right here. It is about four acres that is because we want to put a road from the main road, into this end. So, that's where right there. You see right there this area is a permitted area, we are not doing anything in this area right now.

Chairwoman P. Fejeran: You are not looking to receiving any income from sales of coral?

Mr. H. Simpson: We have sales of coral, and construction materials, we have a third line support.

Chairwoman P. Fejeran: I do not see from 2020 and it kicks in 2021?

Mr. H. Simpson: Actually, we have 2021, because I told Dave do not put anything there yet as we were uncertain where we were. I would love to put that into 2021.

Chairwoman P. Fejeran: So, you were receiving \$25,000.00 from revenue just from the sale from extracted material and \$75,000.00 from year one, \$25,000.00 for year two. \$100,000.00 year three. The way our agreement is currently set up fifty percent of the revenue of these two sales. Okay, so that is worth a...I do not see that factored into your 2021 revenue to be paid. The new lease does not allocate the percentage of sales...****inaudible****.

Mr. H. Simpson: We did call our rent.

Legal Counsel N. Toft: It is separate from rent.

Chairwoman P. Fejeran: So, we are missing a line here?

Mr. H. Simpson: Yeah.

Chairwoman P. Fejeran: Okay.

Mr. H. Simpson: Yup, actually...yeah under those three years there should be...sorry.

Chairwoman P. Fejeran: ****Inaudible**.**

Legal Counsel N. Toft: Just so the Board knows, to include it in your calculations of the...

Chairwoman P. Fejeran: Gross revenue. So, we were already getting our portion.

Legal Counsel N. Toft: Correct. We were already getting the fifteen percent.

Chairwoman P. Fejeran: In order to make a responsible decision on this, because right now we are still on the moratorium for the grading and excavation, taking of the land and selling it, right, what the Commission would like to see is what you have planned. So, we can look at it and...

Mr. H. Simpson: You are looking at our plans. This is our plans for now.

Chairwoman P. Fejeran: Phase five, I guess that is what you are doing right now.

Mr. H. Simpson: Twenty acres there.

Chairwoman P. Fejeran: About twenty acres, not so great but it tells us about twenty acres. How much coral? How much friction materials will be digging out?

Mr. H. Simpson: That twenty acres is about four hundred thousand, then...

Chairwoman P. Fejeran: What I want to see a very comprehensive plan presented to us, so, we are not scratching our heads and saying what is happening here. You know, we must have a comprehensive idea of what is happening on our property. Especially when the last time a decision was made, no more activity until we know what is going on. I appreciate that the survey and topo has been done, we would like to see that done so that we have it on our record, but this is a starting point. These are the phases, and this is the income that the Guam Raceway will be generating, and this is the portion that Land Trust, so...

Commissioner J. Cruz: On your twenty-acre clearing, or grading, are you going to phase in the permit or are you going to blanket it in?

Mr. H. Simpson: The whole area is permitted but he is only doing it on steps.

Commissioner J. Cruz: Could we get a copy or a site observation of each increment you guys...

Mr. H. Simpson: We can put the phases, it is phase five, but we can break it into what we think we want to do. The predictions of those phases.

Commissioner J. Cruz: So, the twenty acres...

Mr. H. Simpson: We have a twenty-acre permit, and these phases are over the four acres and best management practice and keep it good. We cleared that over three times and it is back to jungle already.

Chairwoman P. Fejeran: If you do not have the numbers yet, at least tell us this is the first part of the project that we want to do, really gives a comprehensive idea of the project that you are proposing for the entire thing. I don't want to do this on a piece know basis, I want to make sure that what we are looking at and discussing and approving, you know we are not going to approve like phase five, phase six and then you get to phase seven and we say no, no, no. It is like what is all that work done for. Provide the Commission comprehensive as you can providing. It sounds like you got all those details communicated to the Commission.

Commissioner J. Cruz: Can we just require them to provide a courteous status report on each page?

Chairwoman P. Fejeran: I think that if it is approved.

Mr. H. Simpson: That...

Commissioner J. Cruz: That would be an unapproved status.

Mr. H. Simpson: We do not mind doing a projection. That would be easy to do because we can work off the topo. Each phase, we believe where the boundaries would be. As projected forward, and a mining plan of where we believe we will be, grading plan. For the raceway to move forward and to produce an asset for the people of Guam, what we are doing is necessary to do. Just like every other site, somebody must go and start. You must tear down trees and you got to take either the rock or whatever away and that's part of the development. Overall, it is going to be a particularly good asset as far as income for CHamor Land Trust is concern. It is all done for you. We have one thing that we are dealing with and it is a small cave, so I am dealing with the guys at the Historical Preservation.

Chairwoman P. Fejeran: If you can include that also...

Mr. H. Simpson: It is on the plan.

Chairwoman P. Fejeran: In the narrative and all of that...give us...tell us everything. We like we are left out in the cold. You guys have obviously been doing a lot, a lot great work. Sounds like diligent and responsible, I appreciate that. In that narrative a description proposal you did provide, but if you could also provide us ways you would keep us along like Commissioner Cruz mentioned, periodic status reports, tell us, you know if we approve this, this is what we can expect.

Mr. H. Simpson: We would like to ask at this time if we can continue with these four acres so that we do not have to stop them. On your next meeting on the nineteenth, yeah, the nineteenth, we can come in with our preliminary plan on the other sections. I think we got the framework of our lease, and if you can vote to approve that so we can move that along to the Legislature because it got to be approved by them. It may get redone by them and so it is the Legislature that I am afraid of and so we need to move it pass this point.

Chairwoman P. Fejeran: It is unusual with the activities happening on the site, I hope you continue to occupy the site and use the site on this month to month lease but that moratorium basically says no new project. I do not want to rehash what we hashed out in beginning but that was the Commission's decision. This is your opportunity.

Mr. H. Simpson: This is our difference of mineral extraction and extracting where the track. There is a difference.

Chairwoman P. Fejeran: They are same, thank you, they are the same. You are fooling nobody Mr. Simpson. Let us do this right, I want to do this right. Hey, I am going to grade but I am going to grade like thirty feet down. I appreciate that you came in today, you were able to speak, I do not know what you are asking of us to approve the four acres what are the activities?

Mr. H. Simpson: I think to continue we will give the full details, and the extraction amounts.

Chairwoman P. Fejeran: But now the cease and desist holds, there is no further grading.

Mr. H. Simpson: We are asking...

Chairwoman P. Fejeran: My question is what are you asking now?

Mr. H. Simpson: For us to continue the four acres. Permits expire in April, we really are in the permit stage. The permits are only for twelve months and then we must renew. It is basically in a renewal stage.

Commissioner J. Cruz: Is it a grading permit?

Mr. H. Simpson: It is a grading permit, yeah.

Chairwoman P. Fejeran: I am curious Legal Counsel, what is our leverage for getting higher royalties?

Legal Counsel N. Toft: Simple, the Board request and if they agree to it, I mean it is an open negotiation...**inaudible**.

Mr. H. Simpson: I think I agree to that it is open negotiation.

Chairwoman P. Fejeran: When can you have that information to us?

Mr. H. Simpson: Prior to Christmas, we will get something to you. I certain do, the topo is done on the four acres and if we can carry on, I could give you the possible amount come out of there, the amount that comes out of the four acres. If we could move forward and then I can do the next four acres and you would have that information as soon as I get the survey.

Commissioner J. Cruz: So, maybe what they can do is present us with the application for the four acres with the detail of the excavation plan and your permit plan. We will route it here first before you go to Public Works and get your...

Mr. H. Simpson: No, we got this permit...

Commissioner J. Cruz: I understand that but what we want to see is the four acres a total of how many volumes are being excavated.

Mr. H. Simpson: Yeah, we can give you that within the next few...

Commissioner J. Cruz: ****Inaudible****.

Mr. H. Simpson: It is part of the twenty acres, it is one big number of twenty acres. They are doing four acres at a time.

Commissioner J. Cruz: Maybe we can ask you to submit us a...

Mr. H. Simpson: We can probably predict the total...

Commissioner J. Cruz: Twenty acres is hard to...

Mr. H. Simpson: But until we do the actual topo for the because we only topo four acres.

Commissioner J. Cruz: That has always been the problem, Henry, is the topo. So, is any of this permit still good?

Mr. H. Simpson: Yes.

Commissioner J. Cruz: December 17, I mean, 2017...

Mr. H. Simpson: Which is that one?

Commissioner J. Cruz: The...99.72?

Mr. H. Simpson: The Hawaiian Rock is the one with blue. No, it is not good anymore. But what happened there was...

Commissioner J. Cruz: But is this part of the twenty acres?

Mr. H. Simpson: No, but when you open it up...

Chairwoman P. Fejeran: So, that permit is no longer valid? The only valid is with Smithbridge.

Mr. H. Simpson: The only one, but this one is folded into Smithbridge's permit. This was before they got their permit for this area.

Commissioner J. Cruz: So, you got a permit for a twenty acre and you are going to start excavating at four acres? How much of that twenty acres is a volume of excavation?

Mr. H. Simpson: I am going to give you that...

Commissioner J. Cruz: So, when we get that we can decide of further lifting of the moratorium.

Mr. H. Simpson: What we are hoping on doing was continue four acres and because we did the topo and be able to account for it at the end. We will come in with the other four sections.

Commissioner J. Cruz: Just concentrate on the four acres...

Mr. H. Simpson: Yeah, that will...

Commissioner J. Cruz: Give us what you are proposing then we will lift the moratorium, but right now I just do not know what we are looking at.

Commissioner A. Bordallo: Do you have a deadline?

Mr. H. Simpson: Lots of deadlines.

Commissioner A. Bordallo: What is the first deadline you must do this?

Mr. H. Simpson: For us to start moving again, is that what you are asking?

Commissioner A. Bordallo: Yeah.

Chairwoman P. Fejeran: I think it is...what is the rush? Why can't you wait? I mean...

Mr. H. Simpson: It is the same as starting any project, you start, and you are focused on that area. Then you are halted, so...really, we like to focus and complete.

Commissioner J. Cruz: So, when does the permit expire?

Mr. H. Simpson: 2020. So, for us it is important to move it and...

Commissioner J. Cruz: But the moratorium was back in 2016. It is like we are saying, stop but go ahead and do it.

Mr. H. Simpson: Stop over excavating, but it did not say stop building.

Chairwoman P. Fejeran: No, that was not what was said. We did not say stop over excavating.

Mr. H. Simpson: Stop mineral extraction. That mineral extraction was separated from grading. We they say mining and grading is the same, it really is not. Here is the difference, here, here is the difference. In order to do mining and what these guys have to do is drill thirty feet, and that is why you see great big pits. Like Perez Brother's pit, the pit at Fadian, all the different pits are straight edges, they drill thirty feet down and they blast that. That is a phase, they will blast off a phase. That is the most economical way to mine the limestone.

Chairwoman P. Fejeran: That is not what you are doing.

Mr. H. Simpson: We are drilling and blasting short piece, 15 feet, 20 feet.

Chairwoman P. Fejeran: But it is the same. You are doing the same. There is still land that is taken off our land. I am sorry, there is land to a land being taken off our land being sold. That was what the moratorium was about. Stop taking our land and selling it. I hear your position I am telling you that was not the understanding the Commission had.

Mr. H. Simpson: To get to the requirement of the plan...

Chairwoman P. Fejeran: Yeah, but the plan, you guys made the plan. If say like 50, how high of a plateau are you on? If the plan was forty feet down, oh well we are just matching the plan we are just grading it, sorry so semantics here is land taken off our land and being sold, okay. Is that going to be happening with these four acres?

Mr. H. Simpson: What happens there is they are drilling and blasting...we are not selling it to people.

Chairwoman P. Fejeran: Are you making money off this?

Mr. H. Simpson: They pay us a royalty because it's good material.

Chairwoman P. Fejeran: And you are giving us a royalty?

Mr. H. Simpson: Yes, we pay you back half. The reason we are lucky to do that is if this were red dirt, they would never do this.

Chairwoman P. Fejeran: I am going to play devil's advocate. If it was not you and it was the CHamoru Land Trust, say hey this is our property that we are sitting on, let us go ahead and excavate this and generate some revenues for the same. We would get 100% of the proceeds.

Mr. H. Simpson: Yes, exactly but what you would have is a big hole when you are done.

Chairwoman P. Fejeran: I think there is one on your site right now.

Mr. H. Simpson: There are several of them around. This is producing an asset for the future for CHamoru Land Trust and the island. It is a means to go forward so...

Chairwoman P. Fejeran: What is, I am sorry to interrupt you, what...if the Commission says today, okay, we will lift the cease and desist for the four acres

only, what does the Commission get? What does the Land Trust get? What is the advantage for the Land trust? At this point for those four acres.

Mr. H. Simpson: Cash in the hand and moving the project forward.

Chairwoman P. Fejeran: So how much cash?

Mr. H. Simpson: I do not have those numbers. I wish I had those projected numbers. We can that within a week.

Chairwoman P. Fejeran: Within a week? When we have our next meeting December 19, that is next Thursday.

Mr. H. Simpson: Next Thursday? I will be here.

Chairwoman P. Fejeran: I would appreciate you provide that information. If you do not have the full project information at least give us that.

Mr. H. Simpson: The four acres is very easy and...

Chairwoman P. Fejeran: And total projection.

Mr. H. Simpson: A total projection you will get out of that.

Chairwoman P. Fejeran: Okay, yeah, if that is what you are asking of us to lift the cease and desist to allow you to work on the four acres, I think let us have the information and let us make a decision.

Mr. H. Simpson: Okay.

Chairwoman Fejeran: December nineteenth?

Mr. Simpson: Thank you very much, happy holidays.

Chairwoman Fejeran: Thank you sir. We are supposed to go into our executive session, but Attorney Mike Phillips is not here. I did not see...I got a missed call from his office. Can I just have a ten-minute recess? Ten-minute recess.

Audio recording ended

