clerks@guamlegislature.org

From: Speaker's Office <speaker@guamlegislature.org>
Sent: Thursday, December 3, 2020 3:18 PM
To: Clerks Office
Cc: Rennae Meno
Subject: M&C Fwd: M & C_Guam Judicial Council_November 19, 2020 Regular Meeting Packet
Attachments: Judicial Council of Guam Regular Meeting November 19, 2020 packet.pdf

12/03/20	3:00 PM	11/19/20	Meeting Documents Regular Meeting held on November 19, 2020.*	Judicial Council of Guam	35GL-20-2478

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
T: (671) 477-2520/1
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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

---------- Forwarded message ---------
From: **Shelterihna Alokoa** <salokoa@guamsupremecourt.com>
Date: Thu, Dec 3, 2020 at 3:00 PM
Subject: M & C_Guam Judicial Council_November 19, 2020 Regular Meeting Packet
To: Speaker's Office <speaker@guamlegislature.org>
Cc: Staff Attorney Serge Quenga <aquenga@guamcourts.org>, Petrina Ula <pula@guamsupremecourt.com>

Buenas yan hafa adai Messages and Communication Staff for the Honorable Tina Muña Barnes:

Pursuant to 5 GCA § 8113.1 and as the Judicial Council Assistant Secretary, I am sending an electronic copy of the Judicial Council Meeting packet from the recent November 19, 2020 regular meeting. For your convenience, the meeting documents have all been compiled into 1 PDF.

I respectfully request a reply to confirm receipt of the attached packet. Please also let me know if you have any questions, comments, or concerns.

--

Respectfully,

Shelterihna Alokoa



Assistant Secretary,

Judicial Council of Guam

Suite 300, Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910-5174

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JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, NOVEMBER 19, 2020 | 12:00 PM
GUAM JUDICIAL CENTER
AND VIA VIDEOCONFERENCE

AGENDA

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING: November 12, 2020
November 17, 2020

III. DETERMINATION OF QUORUM

IV. READING AND DISPOSAL OF MINUTES: October 15, 2020 Regular Meeting

V. OLD BUSINESS
A. Judiciary FY21 Remittances pursuant to P.L. 35-099
B. Update on Capital Improvement Projects

VI. NEW BUSINESS
A. Proposed Amendments to the Superior Court Interim Traffic Court Rules
B. Update on the Judiciary's Response to COVID-19
C. Notice of Next Meeting (December 17, 2020)

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT
A. Guam Bar Association – President's Report
B. Court Employees Association

IX. EXECUTIVE SESSION
A. Ongoing Litigation

X. ADJOURNMENT

GUAM, SAIPAN, PALAU COMMEMORATE VETERANS DAY



COMMEMORATION: *Attendees gather for a photo during the Veterans Day commemoration at the American Memorial Park in Saipan on Wednesday.*

Photo courtesy of the Commonwealth of the Northern Mariana Islands governor's office



SIGNAL: *An airman signals the pilot of an F-22 Raptor as the aircraft is about to take off for a flyover from Andersen Air Force Base on Guam. The Air Force conducted a flyover in Guam, Saipan and Palau skies for Veterans Day commemorations on Wednesday.*

Photo courtesy of the 36th Wing on Andersen Air Force Base



'WE WILL NEVER FORGET': *Veterans Day in Palau included a parade where the island nation's fallen service members were honored.*

Photo courtesy of the U.S. Embassy on Koror, Palau



▲ OVER THE COCONUT TREES: *A B-1 Lancer and two F-22 Raptors fly by over the War in the Pacific National Historical Park after taking off from Andersen Air Force Base during the commemoration of Veterans Day on Wednesday. Photo courtesy of the 36th Wing, Andersen Air Force Base*

▶ PALAU: *A B1 Lancer bomber aircraft, escorted by F-22 Raptors fly over the Republic of Palau as the island nation commemorates Veterans Day. Photo courtesy of the U.S. Embassy in Palau*



JUDICIAL COUNCIL OF GUAM

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www.guamcourts.org

NOTICE OF PUBLIC MEETING

The Judicial Council will conduct its monthly meeting on **Thursday, November 19, 2020, at 12 Noon in the Guam Judicial Center, 120 West O'Brien Drive in Hagåtña by video-conference.** A monitor will be set up for any members of the public who would like to observe and offer comments. The meeting will also be streamed live on YouTube at https://www.youtube.com/channel/UCfnFCWwIlp99fAeh9zi4Q4g/featured The agenda will be made available prior to the meeting.

In addition, a request for Executive Session of the Judicial Council of Guam will be made pursuant to 5 G.C.A. §8111(c)(4) following the discussion of regular meeting agenda items. The agenda for the Executive Session will be to discuss ongoing litigation.

Any person(s) needing special accommodations, auxiliary aids or services, please contact the Administrator of the Courts at 475-3544, or Petrina M. Ula at 475-3589.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO
Chairman

Doc. No. 35GL-20-2478*

General election turnout lowest level since 1950

By Haidee Eugenio Gilbert
haidee@postguam.com

Guam saw its lowest voter turnout in 70 years, nearly 52%, during the 2020 general election amid the coronavirus pandemic.

Based on a review of Guam Election Commission data, 51.96% is the lowest voter turnout since 1950.

This means that only 29,034 voters cast their ballots this year out of 55,880 registered voters.

The other 26,846 or 48% stayed home, possibly out of concern about catching or spreading the virus that causes COVID-19.

GEC Commissioner Patrick Civille and GEC Executive Director Maria Pangelinan said the COVID-19 pandemic was the main culprit behind the low voter turnout, but they welcomed the tremendous early voting of nearly 13,000 or 23% of registered voters, inclusive of homebound voting and ballots mailed in from off island.

Across the nation, the pandemic shattered early voting records. A record-breaking number of voters cast their ballots in advance of Election Day to avoid crowds and long lines and to decrease their risk of getting or spreading the virus.

Civille also said that 2020 being a nongubernatorial election year also played a part in the voter participation rate on Guam.

Guam's voter turnout has ranged from 67% to 92% from 1950 to 2018, easily beating the U.S. national voter turnout of about 40% to 60%, according to Democratic Party of Guam Chairwoman Sara Thomas-Nededog.

The 67% voter turnout for Guam was recorded in the 2018 gubernatorial election and the 2012 election.

DEATH TOLL continued from page 1

compounded by COVID-19. She was admitted to GRMC on Nov. 16 and tested positive upon admission.

"Our day is filled with sorrow as we learn of four more passings to COVID-19. May their families accept our deepest condolences and sympathies," Gov. Lou Leon Guerrero stated in a press release. "Too many souls have been lost to this virus and too many people have been left to grieve. Our vigilance and our commitment to protecting each other are what will get us through this."

New cases

On Monday night, the JIC reported 54 new COVID-19 cases out of 757 tests conducted.

That brings the island's total number of cases to 6,175 since testing started in March.

The Department of Corrections reported that nine prisoners from Post 9 were tested for the novel coronavirus after they started exhibiting symptoms. DOC Deputy Director Robert Camacho said 10 employees also were tested. Of those tested, seven prisoners and two employees were positive.

This brings the total number of COVID-19-positive employees to 45 and prisoners to 99, based on Nov. 13 numbers.

GBHWC Crisis Hotline

The Guam Behavioral Health and Wellness Center has a crisis hotline that is available 24/7 at (671) 647-8833/4. For those feeling anxious, stressed, overwhelmed or are needing to talk to someone, GBHWC has experienced providers available and ready to assist the community with any heightened stress and anxiety experienced as a result of COVID-19, according to the JIC. ***(Daily Post Staff)***

DECISION continued from page 1

Frank Diego, of Inarajan, and other voters who already picked between San Nicolas and Underwood shared their thoughts on the runoff election's importance.

"If you voted the first time and don't vote again, you're kind of giving up on your first vote. Don't give up on your first vote," Diego, 51, said. "Sometimes you just got to hang in there and finish off your work, your duty."

Diego and his wife were among the dozens of voters still waiting in line past the noon cutoff time on Monday to vote early.

"Your effort on the first time, it will be wasted if you don't vote again," he said. "You want to finish the job. Make it count."

He said he's never missed an election, and told his children to always make it a point to vote.

"I try to tell my kids, 'You can't really say much if you don't take action. You got to do your part. It's not always going to work out, but do your part,'" the father of four said.

Jose Gallego and wife Airene, 56, said they wanted to make sure they are part of the decision-making process to determine who will represent Guam in D.C.

"It takes a little bit of sacrifice and time to vote one more time," Airene Gallego said. "But come out and vote. You cannot keep on complaining if you don't vote."

The couple from Dededo said they were not surprised at all that there were still people like them in line close to the cutoff hour for early voting.

The Gallegos said they want to avoid longer lines and bigger crowds on Election Day to help protect themselves from COVID-19.

"Every single vote counts. We think it will be much closer than the three-way delegate election," Jose Gallego said.

No one was turned away if they were already in line by noon to vote by walk-in or curbside, said Guam Election Commission Executive Director Maria Pangelinan.

Low voter turnout expected

With the ballots for 10% of Guam's 55,880 registered voters already cast, there's still some 50,000 remaining voters who have yet to make a choice.

However, some members of GEC and political party representatives project only between 40% and 45% voter turnout for the runoff election, mainly because of health and safety concerns related to the COVID-19 pandemic.

Pangelinan on Monday reiterated her assurance to voters that GEC has been making the voting process "as safe as we can."

"There will be curbside voting at every polling site. We will sanitize all the polling rooms, the frequently touched spaces after every voter so please come out Tuesday, Nov. 17, bring your mask and your black pen, and come out and vote in the runoff," Pangelinan said, as she greeted early voters in line Monday.

For 13 hours today, from 7 a.m. to 8 p.m., election precincts will be welcoming voters around the island.

"If you are registered to vote, for the general, even though you didn't vote in the general, you're welcome to come out and vote and are eligible to vote," she said.

As of Monday, there were 5,059 early votes either through curbside or walk-in at the GEC office, as well as 538 homebound votes and about two dozen votes from off-island absentee ballots received.

Pangelinan said GEC also provided homebound voting service to those at the Guam Memorial Hospital and the government COVID-19 quarantine facility.

As of Monday, they haven't received any request from patients at the Guam Regional Medical City or anyone from the government's COVID-19 isolation facility.

Down to 2

San Nicolas got 13,000 votes in the three-way delegate race during the Nov. 3 general election but fell short of the 50%-plus-one threshold to win the seat.

San Nicolas was only able to corner 45.95% of the voters who voted in the delegate race. He got 3,700 more votes than Underwood.

Underwood, the second highest vote-getter, received 9,300 votes or 32.87%.

Republican Sen. Wil Castro landed in third place and announced he's voting for Underwood. He got 5,942 votes or 21% of the votes cast.

Charles Flores, 35, of Agana Heights, was among the last-minute early voters on Monday and said he's excited to find out the results of the runoff election.

"You should vote because it's about choosing a congressman. Whether you're a Republican or a Democrat, vote," he said. "Exercise your right to vote."

UNIVERSITY OF GUAM
UNIBETSEDÅT GUÅHAN

First Notice

The regular meeting of the University of Guam Board of Regents (UOG BOR) will be held via registered zoom on **Tuesday, November 24, 2020 at 5:30 p.m.** A Working Session will be held via registered zoom prior to the regular meeting at 4:30 p.m. The meeting will be publicly accessible by registering for zoom access at https://zoom.us/meeting/register/tJcufuygpz0tHtJv4oKtdwp9-tQLF0pBNrCl.

For security purposes, registration for the public is required for attendance.

This complies with the Governor's Executive Order No. 2020-07, dated March 28, 2020, paragraph 4 related to Open Government and Participation in Meetings via Teleconferencing during the emergency declaration period.

UOG complies with Guam Public Law 24-109 with reference to the provisions and requirements of the Americans with Disabilities Act. For special accommodations, please contact the ADA Coordinator at 735-2244 or (TTY) 735-2243. Live Closed Captioning is available through a website link provided within the online meeting.

This ad was paid for with UOG funds.

JUDICIAL COUNCIL OF GUAM
Suite 300 Guam Judicial Center
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NOTICE OF PUBLIC MEETING

The Judicial Council will conduct its monthly meeting on **Thursday, November 19, 2020, at 12 Noon in the Guam Judicial Center, 120 West O'Brien Drive in Hagåtña by video-conference.** A monitor will be set up for any members of the public who would like to observe and offer comments. The meeting will also be streamed live on YouTube at https://www.youtube.com/channel/UCfnFCWwIlp99fAeh9zi4Q4g/featured The agenda will be made available prior to the meeting.

In addition, a request for Executive Session of the Judicial Council of Guam will be made pursuant to 5 G.C.A. §8111(c)(4) following the discussion of regular meeting agenda items. The agenda for the Executive Session will be to discuss ongoing litigation.

Any person(s) needing special accommodations, auxiliary aids or services, please contact the Administrator of the Courts at 475-3544, or Petrina M. Ula at 475-3589.

Doc. No. 35GL-20-2478.* **/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO**
Chairman

JUDICIAL COUNCIL OF GUAM

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****

Hon. F. Philip Carbullido
Chairman

Hon. Katherine A. Maraman
Member

Hon. Robert J. Torres
Member

Hon. Alberto C. Lamorena, III.
Member

Hon. Arthur R. Barcinas
Member

****

Advisory Committee Members:

Hon. Anita A. Sukola

Hon. Vernon G. Perez

Hon. Maria T. Cenzon

Hon. Elyze M. Iriarte

Atty. Jacqueline T. Terlaje

Atty. Frederick J. Horecky

****

Administrator of the Courts:
Kristina L. Baird

Judicial Council Secretary:
Petrina Ula

Judicial Council Asst. Secretary:
Shelterihna T. Alokoa

JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, OCTOBER 15, 2020
Justice Monessa G. Lujan Appellate Courtroom
Guam Judicial Center
And via Videoconference

MINUTES

I. CALL TO ORDER

The Regular Meeting of the Judicial Council was called to order by the Chairman, Chief Justice F. Philip Carbullido at the hour of 12:07 p.m.

ROLL CALL*:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)
Justice Katherine A. Maraman (calling in from Tamuning)
Justice Robert J. Torres (calling in from Santa Rita)
Presiding Judge Alberto C. Lamorena III (calling in from the Judiciary)
Judge Arthur R. Barcinas (calling in from the Judiciary)

Advisory Committee Members:
Administrative Hearing Officer Bridget Ann Keith
Attorney Frederick J. Horecky
Attorney Jacqueline T. Terlaje

Also Present:
Ms. Kristina Baird, Administrator of the Courts (AOC)
Mr. Robert Cruz, Deputy Chief Administrator
Ms. Alicia A.G. Limtiaco, DPPCR
Mr. Andrew "Serge" Quenga", Staff Attorney, Judiciary of Guam
Mr. Daniel Mensching, Staff Attorney, Judiciary of Guam
Ms. Dawn R. Blas, Judicial Educator
Ms. Marcelene Santos, Public Guardian
Ms. Hannah G. Arroyo, Clerk of Court, Supreme Court
Ms. Danielle Rosete, Clerk of Court, Superior Court
Ms. Erica Eschbach, Staff Attorney, Supreme Court
Ms. Barbara Jean Perez, HR Administrator
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer
Ms. Trish Suzuki, Deputy Chief Probation Officer
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl Dominguez, Procurement & Facilities Management Administrator
Ms. Marissa C. Antonio, Deputy Procurement & Facilities Mgt. Administrator
Ms. Virginia Yasuhiro, CSFC Administrator, Client Services and Family Counseling Division
Ms. Geraldine A. Cepeda, Compiler of Laws/Law Library Executive Director
Mr. Robert Rabago, MIS Acting Administrator
Ms. Jeanette M. Quintanilla, Senior Probation Officer/IFIK President
Ms. Cynthia Sablan, honored Judiciary retiree
Mr. Robert Gaminde, honored Judiciary retiree
Ms. Shelterihna T. Alokoa, Chamber/Courtroom Clerk
Ms. Petrina Ula, Chamber Clerk

*Note: All individuals listed above participated via video conference as per social distancing directives.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day Notices of Meeting of the Judicial Council, as required under the Open Government Law, were published in the Guam Daily Post. Acknowledgements are on file.

III. DETERMINATION OF QUORUM

Chief Justice Carbullido began the roll call. Chief Justice F. Philip Carbullido, Justice Katherine A. Maraman, Justice Robert J. Torres, and Presiding Judge Alberto C. Lamorena III identified themselves and their location over videoconference, respectively. With the presence of four (4) Judicial Council members, a quorum was determined for this meeting. Judge Arthur Barcinas joined the Zoom meeting at 12:23 p.m.

IV. READING AND DISPOSAL OF MINUTES: September 17, 2020 Regular Meeting

Presiding Judge Lamorena moved to approve the Minutes for the September 17, 2020, 2020 Regular Meeting, subject to correction. Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor; the minutes were approved.

V. OLD BUSINESS

A. Judiciary FY20 Remittances under P.L. 35-36

Ms. Dianne Gudmalin, Finance Administrator reported that the Judiciary received its last allotment for FY20 on September 22, 2020. She stated that, overall, the Judiciary received its FY20 allotments in full and complete.

Ms. Gudmalin explained that Public Law 35-099 appropriated $29,444,760 to the Judiciary for its FY21 operations. She reported that the Financial Management Division (FMD) submitted all the required documentation needed to the Department of Administration (DOA) to establish the biweekly scheduled allotments of $1,132,490. She stated that based on FMD's communication with DOA, the Judiciary can anticipate receiving its first allotment by the end of the week of October 16, 2020.

Ms. Gudmalin shared that based on changes from personnel benefits, specifically employee insurance plans, and due in part to the renewal of contracts for FY21, the FY21 Budget has been updated. She explained that the changes did not result in a significant difference from the FY21 Budget amounts reported to the Council on September 17, 2020. She stated that because the changes were not significant, the Judiciary management is still looking into potential implementation of 36-hour work week effective third quarter of FY21 or April 2021.

Ms. Gudmalin added that FMD has not received all invoices needed to complete the closing of FY20; FMD continues to reconcile and prepare for the close of the FY20 to identify available funding for the new fiscal year.

Chief Justice Carbullido assured the Council that any significant changes in the FY20 lapses will be reported at the next Judicial Council meeting. He affirmed that the Judiciary is facing a 36-hour work week in April 2021. He stated that by addressing personnel costs, imposing a hiring freeze, and not filling vacant positions, there is the possibility of a 38-hour work week. He asked Ms. Gudmalin to update the Council on Care Acts funding.

Ms. Gudmalin reported that as of September 2020, the Judiciary has incurred approximately $1,091,079 in COVID-19 related costs that may be reimbursable under the CARES Act. She stated the Department of Administration (DOA) has reimbursed $789,000 of incurred expenses; approximately $302,000 is uncollected.

She added, that of the total $1,091,079 incurred, 74% or approximately $803,000 pertains to personnel costs for the law enforcement personnel serving as front-liners assisting Guam Homeland Security (GHS) and the Department of Public Health and Social Service (DPHSS). She shared that the remaining $288,000 is for the ongoing sanitization efforts, telework and safety precautions implemented by the Judiciary.

Chief Justice Carbullido added he indicated concern to Ms. Gudmalin regarding the outstanding amount owed; however, she asserted DOA has the required paperwork and payment is delayed due to beginning of fiscal year activity at DOA. He stated he encouraged FMD to diligently seek reimbursement, as CARES Act funding helps the Judiciary's overall financial posture.

Chief Justice Carbullido assured the Council all financial slides presented will be emailed following the meeting.

B. Update on Capital Improvement Projects

Ms. Kristina Baird reported on three (3) ongoing projects: The San Ramon building, the Route 4 building, and the 8th judge's Courtroom.

She shared that the vendor will trench for and lay fiber optic cables for connectivity from the Judiciary to the newly constructed high capacity courtroom in the San Ramon Building on Saturday, October 17, 2020.

Ms. Baird explained construction started on the Route 4 building this week and the contractor is on track to meet the December 15, 2020 completion deadline. She shared that the building will be utilized to centralize documents storage.

Ms. Baird reported that the 8th judge's Courtroom is currently under renovation and said renovation should be completed in the next two weeks. She added that work will begin on the air conditioning and electrical needs of the room.

VI. NEW BUSINESS

A. JC Resolution Proposing Legislation to Amend Preservation and Disposition of Court Documents

Justice Torres explained that as part of the Judiciary's Technology Strategic Planning Initiative, he has been working with Supreme Court Clerk of Court Hannah G. Arroyo, Superior Court Clerk of Court Danielle Rosette, Staff Attorney 'Serge' Quenga, and the Administrator of the Courts Kristina Baird to evaluate current statute GCA Title 7 § 7120 regarding the preservation and disposition of court records . Justice Torres stated that the current statute allows for computerization of records; however, no originals can be destroyed. He stated that is unreasonable and not feasible considering the volume of records the Judiciary maintains. He added the cost to store the original records is becoming costly. Justice Torres affirmed the Judiciary has the technology to digitize and safe-guard permanent copies of digital records. He stated the proposed Resolution asks for the approval of the proposed legislation and for the Chief Justice to transmit the bill to the Legislature for consideration. He described the changes made to the original statute. He asked for an opportunity for Staff Attorney Serge Quenga to review the proposed statute once more for accuracy. Justice Torres assured Chief Justice Carbullido he would send the finalized resolution no later than Friday, October 16, 2020.

Justice Torres moved to adopt the resolution proposing legislation to amend preservation and disposition of court documents; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called an oral vote regarding the resolution. All Council members voted in favor; the resolution was unanimously adopted.

B. Certificates of Commendation (C. Sablan, R. Gaminde)

Chief Justice Carbullido recognized special guests, Ms. Cynthia Sablan and Mr. Robert Gaminde. He stated Ms. Sablan and Mr. Gaminde recently retired from the Judiciary.

Ms. Barbara-Jean Perez, Human Resources Administrator (HR), explained that Ms. Sablan retired in March 2020 but due to the pandemic, her retirement could not be officially recognized at that time. She spoke to Ms. Sablan's years of service to the people of Guam, and the Judiciary.

Justice Torres, Presiding Judge Lamorena, Judge Barcinas, Ms. Danielle Rosete, Ms. Jacqueline Terlaje respectively commended Ms. Sablan and shared accolades of their experiences with her. Chief Justice Carbullido acknowledged Justice Maraman was experiencing technical difficulties logging into the video conference and could not comment. He concluded the remarks by commending Ms. Sablan and he wished her all the best and gave her the opportunity to extend remarks.

Ms. Sablan thanked the Judicial Council for the opportunity to serve the people of Guam and Judiciary staff. She expressed sincere gratitude and stated she is still available for notary services, if needed.

Ms. Perez, HR Administrator, stated Mr. Robert Gaminde retired from the MIS Division of the Judiciary in September 2020 after sixteen years of service to the Judiciary as a senior system analyst.

Justice Maraman, Justice Torres, Presiding Judge Lamorena, Judge Barcinas, and Mr. Robert Rabago each shared their respective accolades and appreciation for Mr. Gaminde. Chief Justice Carbullido expressed his appreciation for Mr. Gaminde's continued support and thanked him for serving the people of Guam with his knowledge and technical expertise. Chief Justice Carbullido gave Mr. Gaminde the opportunity to respond.

Mr. Gaminde thanked everyone for making him part of the court family and stated he enjoyed his years of employment at the Judiciary.

C. Update on Judiciary's response to COVID-19

Ms. Baird reported that three (3) Zoom Rooms have been set up in the Judiciary for use by court patrons who have no access to video-conference technology. She stated a policy regarding the use of the Zoom Rooms was disseminated to Judiciary employees yesterday.

She stated an additional policy will be sent out today that directs all Judiciary employees as to what they need to do if they are experiencing symptoms of COVID 19 or have had a potential exposure to the virus.

Ms. Baird reported that the Judiciary is having difficulty with virtual platforms following the switch to a new bandwidth provider in early October. She stated MIS will assess each courtroom to address problems particular to that courtroom. She added that two webcams will be provided to each courtroom to be utilized at the discretion of the Judicial Officer and chamber staff. She added that MIS identified the Judiciary's router system has outdated components and is a contributor to the connectivity issues so the router system will be replaced. She said an RFP for an IT consultant to assess the functionality of our network and virtual platform operations will go out next week.

Ms. Baird reiterated that sanitization efforts continue, with assistance from the vendor that cleans the Judiciary every weekend. She stated the sanitization efforts have been extended to include the Judiciary field vehicles. She said PPEs are purchased on an as needed basis. She noted Plexiglas has been installed in every courtroom including the high capacity courtroom in the San Ramon building.

D. Notice of Next Meeting (November 19, 2020)

Chief Justice Carbullido announced that the next Judicial Council regular meeting will be on Thursday, November 19, 2020.

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

A. Guam Bar Association (GBA) – President's Report

GBA President Jacqueline T. Terlaje announced the Guam Bar Association (GBA) has initiated their 2021 election process. She stated that GBA is considering asking the Supreme Court for permission to conduct the election electronically in light of the pandemic and gathering restrictions.

Ms. Terlaje shared the GBA has expanded their virtual continuing education opportunities for members. She stated a bankruptcy series is ongoing and added the GBA has launched a video-on-demand series on their website utilizing some Pacific Judicial Council videos. She encouraged the Council to visit their website to view the videos. She also emphasized GBA is hoping to partner with the Judiciary to create more distance learning opportunities for members.

She concluded by stating the 2021 registration period for GBA members will soon be open.

B. Court Employees Association (IFIK) – Board of Governor's Report

IFIK President Jeanette Quintanilla shared that the IFIK Board met on October 13, 2020, to discuss ways to boost morale in these pandemic times. She stated the IFIK will be raffling off family dinner platters from the restaurants, Proa and Three Squares. She added IFIK is looking into sourcing backpacks and t-shirts as gifts to members. She explained that IFIK has submitted a request to the Administrator of the Courts to have a food truck or food vendor capability in the parking lot of the Judiciary during lunchtime. She stated IFIK will work with representatives from each division to identify retirees who are eligible for their $50 retirement benefit. Ms. Quintanilla added that IFIK is a 501C3 non-profit organization and all funds raised are employees' personal funds, and not government funds.

Chief Justice Carbullido stated it is looking less likely that an in-person Christmas celebration will be possible, but hope remains. He said the IFIK's food truck request is with the AOC; he noted that parking, social distancing, and other concerns are being considered. He assured the Council that AOC will work closely with IFIK to properly vet the request.

X. ADJOURNMENT

The meeting was adjourned at 1:05 pm.

Respectfully submitted this 19th day of November 2020.

SHELTERIHNA T. ALOKOA
Assistant Secretary,
Judicial Council of Guam

PETRINA M. ULA
Executive Secretary,
Judicial Council of Guam

The Minutes of the October 15, 2020 Regular Meeting as set out above was approved by the Judicial Council at the November 19, 2020 Regular meeting.

F. PHILIP CARBULLIDO
Chairman

Dated: 11-23-2020

BEFORE THE 2020 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. 20-031

RELATIVE TO RECOMMENDING APPROVAL OF PROPOSED AMENDMENTS TO THE SUPERIOR COURT OF GUAM INTERIM TRAFFIC COURT RULES

WHEREAS, the Judiciary of Guam has been advised by the Director of the Department of Public Health and Social Services ("DPHSS") of the pending promulgation of DPHSS Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency (the "Proposed DPHSS Regulations"); and

WHEREAS, the Proposed DPHSS Regulations provide that violations "will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam"; and

WHEREAS, in order for the Traffic Court to exercise jurisdiction over the violations created by the Proposed DPHSS Regulations it is necessary to amend the Superior Court of Guam Interim Traffic Court Rules which govern the practice and procedure of civil violations within the jurisdiction of the Traffic Court; and

WHEREAS, the Superior Court Clerk of Court, who oversees the Traffic Violations Bureau, has presented the proposed Amended Interim Traffic Court Rules attached as Exhibit A, to the Judicial Council, which amendments will incorporate the Proposed DPHSS Regulations, and statutory civil violations not included in the 2014 adoption of the Interim Traffic Court Rules, remove a violation repealed by law, and make various minor corrections to the Interim Traffic Court Rules; and

WHEREAS, the Superior Court Clerk of Court has requested that the Judicial Council recommend that the Supreme Court of Guam under its rule making authority, approve the proposed Amended Interim Traffic Court Rules.

NOW, THEREFORE, BE IT RESOLVED, that the Judicial Council hereby transmits the proposed Amended Interim Traffic Court Rules, attached as Exhibit A, to the Supreme Court of Guam and recommends approval of the amendments by the Supreme Court.

DULY ADOPTED this 19th day of November 2020 at a duly noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO, Chairman

Dated: 11-23-2020

ATTEST:

Petrina Ula, Executive Secretary

Dated: 11-23-2020

EXHIBIT A

SUPERIOR COURT OF GUAM
INTERIM TRAFFIC COURT RULES

NOTE: Adopted as interim rules pursuant to Supreme Court of Guam Promulgation Order No. 14-002-01 (June 20, 2014) and amended by Supreme Court of Guam Promulgation Order No. 20-003 (November 24, 2020).

Rule 1. Title.
Rule 2. Scope, Purpose and Construction.
Rule 3. Jurisdiction.
Rule 4. Definitions.
Rule 5. Traffic Violations Bureau.
Rule 6. Commencement of Action.
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Rule 8. Admission - Contest.
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Rule 10. Contest - Trial - Evidence.
Rule 11. Entry of Judgment.
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Rule 13. Repeat Offender - Penalties - Suspension.
Rule 14. Retention of Counsel - Entry of Appearance.
Rule 15. Appearance of the Attorney General not Required.
Rule 16. Notice to Regulatory Agency.
Rule 17. Amendment.
Rule 18. Appeal.
Rule 19. Enforcement of Judgment.
Rule 20. Interim Rules and Effective Date.

RULE 1. Title.

These rules shall be known and cited as the Superior Court of Guam Traffic Court Rules.

RULE 2. Scope, Purpose and Construction.

(a) Scope of Rules. These Rules govern the practice and procedure in the Traffic Court, a Division of the Superior Court of Guam for all cases involving civil violations within the jurisdiction of the Traffic Court.

(b) Purpose and Construction. These rules are intended to provide for the just determination of all violations which fall within the jurisdiction of the Traffic Court, and to that end shall be construed to ensure simplicity, uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

RULE 3. Jurisdiction.

The Traffic Court shall hear and determine violations under the following statutes:

(a) 10 GCA Chapter 34 [animal control];
(b) 10 GCA Chapter 51, Article 2 [litter];
(c) 10 GCA Chapter 69 [boating];
(d) 10 GCA § 58111 [Fire Code] violations;
(e) 10 GCA § 73110 [Fire Code] violations;
(f) 10 GCA Chapter 90 [smoking];
(g) 16 GCA Chapter 5 [commercial motor vehicle];
(h) 16 GCA Chapters 3, 7, 9, 13, 19 and 26 [Vehicle Code] violations, and any violation of the Vehicle Code committed by a minor sixteen (16) years or older [19 GCA § 5103(a)(4)].
(i) 5 GCA Chapters 60 and 63 [fish, game, forestry, and conservation]
(j) 5 GCA Chapter 40 [mayors' enforcement of sanitary and health laws]
(k) 26 GAR Chapter 4, Article 28 [regulations governing the enforcement of public health guidance memoranda and directives during the COVID-19 public health emergency]

NOTE: Title 19 GCA § 5103(a)(4) removes from the jurisdiction of the Family Court any violation of the Vehicle Code committed by a person 16 years or older. Title 9 GCA § 67.401.2(b)(3) was effectively repealed by P.L. 35-005:4 (April 4, 2019). Title 26 GAR Chapter 4, Article 28 was enacted by the Department of Public Health and Social Services pursuant to 10 GCA § 19802 and Executive Order No. 2020-38. DPHSS Announcement Nov. 19, 2020.

RULE 4. Definitions.

(a) **Abuse.** The unlawful use of a lawful process or the perversion of a process in order to obtain a result, which was not intended by the law to effect.

(b) **Apprehending Officer**. Means any designated person employed by the Department of Parks & Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all mayors and assistant mayors, and any peace officer.

SOURCE: 10 GCA § 51202(a) (2005).

(c) **Moving Violation**. Any violation of the Motor Vehicle Code committed while a driver is operating a vehicle in motion, including any temporary or intermittent stop in the course of operating a vehicle in motion on any roadway or highway in Guam.

(d) **Non-moving Violation**. Any parking or standing of a motor vehicle not in operation in violation of a statute, ordinance or regulation.

(e) **Non-traffic Violation**. All other violations within the jurisdiction of the Traffic Court as defined in Rule 3 including but not limited to violations prescribed under 9 GCA § 67.401.2 (b)(3); 10 GCA Chapters 34, 69, 90; 10 GCA Chapter 51, Article 2; 10 GCA § 58111; 10 GCA § 73111; and 26 GAR Chapter 4 Article 28.

(f) **Peace Officer**. The same meaning as provided for in 8 GCA § 5.55.

(g) **Respondent**. The person cited with a violation under the jurisdiction of the Traffic Court.

(h) **Traffic Court Judicial Officer**. A judge, judge pro tempore, magistrate judge, or referee appointed by the Chief Justice of the Supreme Court of Guam to preside over Traffic Court cases.

(i) **Guam Uniform Complaint and Citation**. A complaint and citation issued for a violation within the jurisdiction of the Traffic Court under Rule 3, using the General Guam Uniform Complaint and Citation form, including (but not limited to) complaints and citations for litter, boating and smoking.

(j) **Violation**. Any infraction under the jurisdiction of the Traffic Court punishable by a civil fine.

RULE 5. Traffic Violations Bureau.

There is hereby established a Traffic Violations Bureau ("TVB") within the Superior Court of Guam at various locations. The TVB Clerk shall be under the general supervision of the Clerk of Court. The TVB Clerk, or assigned Deputy Clerk(s), shall have authority to accept a respondent's entry of appearance, waiver of trial, admission or denial of liability, payment of fines, fees, and court costs, set trial dates and assess fines, fees, and court costs in accordance with the schedule of fees approved by the Judicial Council, on any violation for which an admission has been entered.

RULE 6. Commencement of Action.

An action is commenced when a Guam Uniform Complaint and Citation ("GUCC") is issued by any peace officer or apprehending officer. The GUCC may also be in electronic format. The reverse side of the GUCC, except for electronic citations, shall provide for recording of the judgment. Electronic citations do not need to meet the formatting requirements but must otherwise provide the same information as a hard copy GUCC. The format of the GUCC for each scope of jurisdiction in Rule 3 shall be approved by the Clerk ofCourt.

RULE 7. Guam Uniform Complaint and Citation.

(a) Filing the GUCC. The issuing agency or apprehending officer shall file the original GUCC with, or transmit the electronic citations to the TVB on or before the appearance date.

(b) Grounds for Dismissal by TVB Clerk. The following causes may be grounds for administrative dismissal of the GUCC by the TVB Clerk:

(i) Failure to cite a statute, or citing an incorrect statute;

(ii) Upon a first violation of the provisions of the Accessible Parking statute as contained in 16 GCA §§ 3401.1(b)(1) or (c), or 3401(d), provided the respondent files a Declaration stating he/she is a disabled person under 16 GCA § 7120.1(a)(2), and the person responsible for the violation, or was with the person responsible at the time the GUCC was issued; or

(iii) The issuing agency or apprehending officer requests in writing that the original GUCC be voided before filing the citation.

(c) Accounting of GUCCs Issued. The TVB shall be responsible for and reconcile all GUCCs filed or received. Each Director or agency head shall be held accountable for any and all GUCCs released to their department for use, and shall report to the TVB any unused, lost, or missing UCCs on an annual basis.

RULE 8. Admission - Contest.

(a) **Admission**. A respondent, or his/her designee with written authorization, may enter an admission to a violation by submitting or delivering the amount of the fine plus court costs, together with the signature by the respondent or designee on the GUCC and on a waiver of trial, to the TVB Clerk at any Traffic Court location, or by mailing the same to the Superior Court of Guam Traffic Violation Bureau, 120 West O'Brien Drive, Hagåtña, Guam 96910, or by any other approved electronic means of payment. Judgment shall be entered against the respondent after an admission imposing applicable fines and court costs, and there shall be no right to appeal.

(b) **Contest**. A contest to the validity or regularity of a violation or process must be made at the first appearance. A designee may enter a contest; however the respondent or respondent's counsel must personally appear to contest the violation. A hearing to contest the violation shall be scheduled pursuant to Rule 11.

RULE 9. Failure to Appear - Order - Default.

(a) First Appearance. If the respondent fails to appear or otherwise answer the violation on or before the first appearance date, an Order to Appear shall be issued by mail ordering the respondent to appear and answer to the violation not later than thirty (30) days from the date of mailing of the Order to Appear.

(b) Order to Show Cause. If the respondent fails to appear or otherwise answer the violation within thirty (30) days from the mailing of the Order to Appear, an Order to Show Cause ("OSC") shall be issued

ordering the respondent to appear at a hearing before the Traffic Court Judicial Officer.

(c) Entry of Default. If the respondent is served with the OSC and fails to appear at the Order to Show Cause hearing, a default judgment may be entered against the respondent imposing maximum fines and court costs, plus legal interest of 6%. The Traffic Court Judicial Officer may issue further orders including but not limited to an order for a warrant of arrest, an Alias Order to Appear, or an Alias OSC.

RULE 10. Contest - Trial - Evidence.

(a) **Scheduling a Hearing**. All contests shall be heard before the Traffic Court Judicial Officer. The TVB Clerk shall schedule a hearing on a contest on the next available date and time. The date set for hearing shall be set not earlier than twenty (20) days, and not later than thirty (30) days from the date of the respondent's request to contest the violation. A hearing in cases involving an accident resulting in personal injury shall be set no earlier than sixty (60) days and not later than ninety (90) days from the date of the respondent's request to contest the violation. These dates may be extended for good cause.

(b) **Respondent to Appear Mandatory**. The respondent must appear at the hearing to contest the violation. No hearing will proceed in the absence of the respondent. Failure of the respondent to appear at the hearing shall be grounds for entry of a default judgment.

(c) **Service of Process**. Notice of the hearing shall be served by the Superior Court Marshal to the Guam Police Department, Office of the Chief of Police, or appropriate regulatory agency. A respondent is entitled to have process issued by the Traffic Court. If the respondent requests for marshal service, the respondent must pay the marshal's fee.

(d) **Right to Be Heard**. All witnesses shall be heard prior to judgment and disposition.

(e) **Evidence**. The Rules of Evidence do not apply in Traffic Court hearings.

(f) **No Jury Trial**. There is no right to a jury trial in Traffic Court. Traffic Court is not a court of record, and therefore, no verbatim record of proceedings is required.

RULE 11. Entry of Judgment. A Judgment may be entered when:

(a) A respondent admits to the violation;

(b) The Traffic Court Judicial Officer has determined after a hearing that the respondent committed a violation; or

(c) A respondent fails to appear after being served an Order to Show Cause or has failed to appear at trial.

RULE 12. Dismissal.

(a) After Hearing. The GUCC shall be dismissed if the Traffic Court Judicial Officer has determined after a hearing that the respondent did not commit the violation.

(b) Peace Officer Not Appearing. Failure of any peace officer or apprehending officer to appear at trial in order to prove the violation shall be grounds for dismissal.

RULE 13. Repeat Offender - Penalties - Suspension.

(a) **Second Judgment within Any 12 Months**. The amount of fines to be imposed on a second judgment for the same or separate violation under the Vehicle Code, charged within any twelve (12) month period, shall be an additional fifty percent (50%) of the original fine for the current violation.

(b) **Third Judgment within Any 12 Months**. The amount of fines to be imposed for a third judgment for the same or separate violation under the Vehicle Code, charged within any twelve (12) month period, shall be an additional seventy-five percent (75%) of the original fine for the current violation.

(c) **Suspension of Driver's License**. The Traffic Court Judicial Officer may suspend the driver's license of a person liable for violating any provision related to a moving violation as provided in 16 GCA § 3111 for a period of thirty (30) days for a first violation, sixty (60) days for a second moving violation, and for a period not to exceed six (6) months for any subsequent violation. The TVB Clerk or designee shall take possession of the license, and retain it for the period of suspension.

(d) **Disabled Parking**. Upon a second violation, the respondent shall be required to appear and answer under oath before the Traffic Court Judicial Officer as to the circumstances giving rise to the repeat violation, and if found in the discretion of the Traffic Court Judicial Officer to have abused the privileges of

disabled parking, shall be fined not less than three hundred dollars ($300.00) and not more than five hundred dollars ($500.00). If no abuse is found the violation shall be dismissed with prejudice.

SOURCE: 16 GCA § 3111 (2005); 16 GCA § 3401.1(d) (2005).

RULE 14. Retention of Counsel - Entry of Appearance.

A respondent may obtain an attorney to represent him/her during the pendency of the violation before the Traffic Court. The attorney must file an entry of appearance with the TVB.

RULE 15. Appearance of the Attorney General not Required.

The Attorney General will not be required to appear to prosecute violations, and the matter may proceed with the peace officer or apprehending officer, or other representative of the citing agency.

RULE 16. Notice to Regulatory Agency.

Upon entry of a judgment, the TVB Clerk shall report through electronic means, any record of the violation to the Guam Police Department and the Department of Revenue & Taxation, or other appropriate regulatory agency.

RULE 17. Amendment.

The Traffic Court Judicial Officer may permit to be amended any process or pleading or any omission or defect therein, or for any variance between the complaint and the evidence adduced at the trial. If the respondent is substantially prejudiced in the presentation of his or her case as a result of the amendment, the Traffic Court Judicial Officer shall recess the hearing to some future time, upon such terms as are just and proper.

RULE 18. Appeal.

(a) **Trial Court**. The Superior Court shall have appellate jurisdiction to review any judgment rendered before the Traffic Court Judicial Officer. An appeal shall be taken within five (5) business days after the judgment is entered by filing a written notice of appeal and paying a filing fee in the same amount as that required for the filing of a civil case.

(b) **Admission by Respondent**. No appeal can be taken from a judgment entered by admission of the respondent.

(c) ***De Novo***. Upon appeal by the respondent the case shall be tried on the merits *de novo*.

SOURCE: 7 GCA § 4102 (2005); 8 GCA §1.09(b) (2005).

RULE 19. Enforcement of Judgment.

The Administrator of the Courts ("AOC"), or the AOC's designee may undertake collection measures and efforts for fines, fees, and court costs more than sixty (60) days outstanding.

RULE 20. Interim Rules and Effective Date.

These Rules are interim rules to be in effect until permanent rules are promulgated by the Supreme Court of Guam. These rules shall take effect upon promulgation by the Supreme Court and shall remain in effect until adoption of the permanent rules or further order of the Supreme Court.

JUDICIARY OF GUAM

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
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HON. F. PHILIP CARBULLIDO
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA III
PRESIDING JUDGE

KRISTINA L. BAIRD
ADMINISTRATOR OF THE COURTS

November 17, 2020

TO: JUDICIAL COUNCIL MEMBERS

CC: Kristina Baird, Administrator of the Courts

FROM: Andrew Quenqa, Staff Attorney

SUBJECT: Request for Executive Session at Regular Meeting November 17, 2020

Hafa Adai. Pursuant to the Open Government Law requirements of 5 GCA § 8111(c)(1), governing executive sessions, I write to recommend that the Judicial Council hold an executive session at its regular meeting scheduled for November 19, 2020 for the limited purpose of discussing the following on-going litigation matters, which involve the Administrator of the Courts as a party:

- *TakeCare v. Birn and Baird*, District Court of Guam Civil Case No. CV19-00126, and

- *Story-Bernardo v. Government of Guam, et. al.*, Superior Court of Guam Civil Case No. CV0733-20.

Further pursuant to section 8111(c)(1), an affirmative vote of the Judicial Council members will be necessary to go into executive session.

Andrew S. Quenga
Staff Attorney