Guam Legislature Clerks <clerks@guamlegislature.org>

Messages and Communications for Doc. No. 36GL-22-2837.

1 message

Committee on Rules 36GL <cor@guamlegislature.org> Wed, Nov 23, 2022 at 6:22 PM
To: Clerks <clerks@guamlegislature.org>, Rennae Meno <rennae@guamlegislature.org>
Cc: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>

Hâfa Adai Clerks,

Please see attached M&C Doc. No. 36GL-22-2837 for processing:

36GL-22-2837	5 GCA 8113.1 Reporting Requirements for Board of Directors Regular Meeting - October 2022.	Guam Environmental Protection Agency

Si Yu'os Ma'âse',

COMMITTEE ON RULES

Vice Speaker Tina Rose Muña Barnes, Chairperson
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guåhan
Guam Congress Building | 163 Chalan Santo Papa Hågatña Guam 96910
Email: cor@guamlegislature.org

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---------- Forwarded message ---------
From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>
Date: Wed, Nov 23, 2022 at 3:15 PM
Subject: Messages and Communications for 36GL-22-2837
To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Hâfa Adai,

Please see attached M&C Doc. No. 36GL-22-2837.

36GL-22-2837	5 GCA 8113.1 Reporting Requirements for Board of Directors Regular Meeting - October 2022.	Guam Environmental Protection Agency

Si Yu'os Ma'âse',

Marie Cruz
Community Relations Liaison

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture
I Mina'trentai Sais na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
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36GL-22-2837.pdf
537K

GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

Honorable Therese M. Terlaje
Speaker
I Mina'trentai Sias na Liheslaturan Guåhån
163 Chalan Santo Papa
Hagåtña, Guam 96910

November 22, 2022

RE: 5 GCA 8113.1 Reporting Requirements for Board of Directors Regular Meeting – October 2022

Håfa Adai Madam Speaker,

Transmitted herewith are the minutes and other required documents from the Guam Environmental Protection Agency (Guam EPA) Board of Directors Regular Meetings for November 2022, in accordance with 5 GCA §8113.1.

Should you have any questions or if the Agency can be of any assistance to you and your office, please feel free to contact the Agency at 671-300-4751.

Respectfully,

JeanAnn Artero
Guam EPA Board Secretary

36GL-22-2837
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
-11- 23 2022
Time: 11:16am
Received:

cc: Guam EPA Administrator
Guam EPA Board Chair

Enclosures: November 17, 2022 Attendance Sheet (Certified by Board Secretary)
November 17, 2022 Approved Agenda
October 20, 2022 Approved Minutes
RRF Financials

COMMITTEE ON RULES
RECEIVED:
November 23, 2022
3:15 P.M.

Board of Director's Meeting

Thursday, November 17, 2022 4:00 p.m.
Via Google meet platform

SIGN IN SHEET

BOARD MEMBERS:

Chairman Steven Carbullido	Present calling in from Tamuning
Vice-Chairman Steven Carrera	Present calling in from Saipan
Director Steve Hollister	Present calling in from Agat
Director Fran Castro	Present calling in from Ipan, Talo'fo'fo'
Director Dave Duenas	Present calling in from Dededo
Director Moñeka De Oro	Not present

Certified By:

X _____
JeanAnn Artero
Board Secretary

Regular Board Meeting
November 17, 2022

Employees and visitors sign in here:

1. Michelle Lastimoza
2. JeanAnn Artero
3. CAPT. Brian Bearden
4. Connie Aflleje
5. Jesse Cruz
6. Romeo Zacarias
7. Sabrina Cruz-Sablan
8. Jesse J. Chargualaf, Jr.
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GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

Guam EPA Board of Directors Regular Meeting Agenda

Thursday, November 17, 2022 – 4:00 p.m.
Google Meet: https://meet.google.com/qrq-dijy-vwc
Meeting will be live streamed on youtube.com/guamepa

I. Call to Order
II. Approval of Agenda
III. Approval of October 20, 2022 Meeting Minutes
IV. Administrator's Report
- Outstanding Notices of Violation

V. New Notices of Violation
VI. Next Meeting Date and Adjournment

Guam Environmental Protection Agency
Board of Directors' Regular Meeting
Thursday, October 20, 2022 at 4pm
Via Google Meet Platform

MINUTES

- **Call to Order**: Chairman Steven Carbullido called the Board of Director's meeting to order at 4:05 p.m. via the Google meet platform. Roll call was done by Guam EPA Staff, Arlene Acfalle, as follows:

  Board Members:
  Chairman Steven Carbullido - Present calling in from Tamuning
  Vice Chairman Steve Carrara - Present calling in from Saipan
  Director Steven Hollister - Present calling in from Agat
  Director Fran Castro - Present calling in from Ipan, Talo'fo'fo'
  Director Dave Duenas - Present calling in from Dededo
  Director Moñeka De Oro - Not present
  **Quorum has been established.*

- **Guam EPA Staff**: Administrator Walter Leon Guerrero, Deputy Administrator Michelle Lastimoza, Arlene Acfalle, CAPT. Brian Bearden, Nic Lee, Don Quinata, Jesse Cruz, Michael O'Mallan, Romeo Zacarias.
  MCOG: Angel Sablan
  General Public: Katie Koenig, Lauren Taijeron, Tony Diaz, Jesse Chargualaf, Jr., Julie Muñoz, Rosemary Cortado, J.S., Orlando Ebalo, Prutehi Litekyan Outreach – Monaeka Flores, Shane Haley, Robert Barcinas, Kelly Marsh-Taitano, Joseph Horton, Senator Sabina Perez, F.C., Kai Perez, Fran Tibayan, Margaret Aguilar, Mart Dueñas, Sophia Underwood, MWS, John O'Connor, Dakota Camacho.

- **Approval of Agenda**: Director Castro made a motion to approve agenda, seconded by Director Hollister. All voted in favor, zero (0) opposed and motion passed.

- **Approval of September 22, 2022 Minutes**: Chairman Carbullido requested a change be made to reflect that Director Dueñas was present, although late to the September meeting. Director Castro made a motion to approve the minutes, seconded by Director Carrara. All voted in favor, zero (0) opposed and motion passed.

- **Administrator's Report** (provided by Administrator)

ADMINISTRATIVE

- **MCOG:** Angel Sablan from the Mayor's Council of Guam presented his Expenditure Plan for the Island Wide Cleanup Program and made an official request to receive funds for FY23. Administrator Leon Guerrero recommended approval of the Expenditure Plan and for the Agency to initiate the process of approving an MOA with MCOG as it has taken longer than anticipated in recent years. Angel Sablan noted that the delay was in getting signatures from the AG's Office, and this resulted in the program being delayed by 4 months. They began the program for FY21 in March 2021, and FY22 in February 2022. Some concerns from the AGs office were in regards to the difference between an "abandoned" vehicle and a "junk" vehicle. The MCOG is still in deliberation on how to define the classifications to begin removing vehicles from roadsides and easements.
  Angel Sablan noted the late submission of the FY21 closeout was due to invoices pending payment from DOA. Of the $1.3 million that was appropriated, $221,000 from FY21 was not utilized and will be returned to Guam EPA / the RRF. He explained that funds will be returned as COVID, employee absences, schedule issues with other agencies or business, and vendor closures, that the cleanup was delayed and some funds not spent. FY22 is in the closeout process, and Angel Sablan noted that he foresees the completion by mid-November of 2022. He shared that the delays on DOA's side is due to the influx and training of new hires after some have retired. Administrator Leon Guerrero noted that deadline to closeout for FY22 is in December. Angel Sablan stated that they have hired 2 new personnel to assist in accounting and administrative work. For FY '23, Sablan noted that the purchase order cap changed from $50k to $75k and could assist Mayors to process priorities more diligently for a whole year instead of 2-3 months at a time. He points out that the notable difference between FY22 and FY23's plans is that they aren't disbursing funds in phases. MCOG requests for approximately $600,000 for abandoned and junk vehicles, and approximately $400,000 for the haulers and equipment rentals to get the program going. Chairman Carbullido stated the Board of Directors received the MCOG's Expenditure Plan today and opened the floor for comments. Director Hollister agreed with Administrator Leon Guerrero and Angel Sablan and asked that documentation be provided more timely in the upcoming year. Castro added positive remarks regarding the MCOG hiring new personnel to better assist in meeting deadlines; she also stated that she is good with the expenditure plan. Director Castro requested that Angel Sablan provide documentation of outstanding balances and status of closeout at least a few days before the Board Meeting, instead of the same day, so that the Board is given ample time to review. Angel Sablan apologized for the late submission and noted he can provide a monthly expenditure breakdown for future board meetings. Chairman Carbullido requested to Walter and Angel that the MOA include language that one

prerequisite to release the funds for FY '23 is to complete the closeout of FY21. Angel Sablan posed no objections to this, and Administrator Leon Guerrero confirmed it will be added to the MOA. Chairman Carbullido stated he has no other issues with the expenditure plan. He then asked the Board if there was a motion. Director Castro made a motion to approve the expenditure plan with the amendment of the MOA to include the release of funds that will be triggered after FY21 is closed out. Director Duenas seconded the motion. All voted in favor, zero (0) opposed, motion passed.

- **Personnel:**
  - Agency continued to review resumes and applications for recruitments for temporary and limited-term appointments.
  - Staff continue GovGuam mandatory ethics training pursuant to Guam PL 36-25.
  - Staff continue with Hazardous Waste Operations and Emergency Response (HAZWOPER) training for emergency response

- **Budget/Procurement:**
  - No updates

POLICY

- **Bill 284-36(LS) (Guam Zero Waste Act) lapses into law on October 12**
  - The governor has directed the agency to begin the formal rulemaking process to "perfect" the amendment sought in the original bill in order to preserve the agency's organic and statutory rulemaking authority.

- **Agency submits written and oral testimony for Bill 155-36(COR) on October 7**
  - The bill aims to:
    - speed up the process of removing junk vehicles from the road.
    - maintain funding of this bill by the abandoned vehicle fee which is paid to DRT when owners register their vehicles.
    - cover costs related to the removal and disposal of an abandoned vehicle to be paid from the Recycling Revolving Fund.
    - have the agency determine an appropriate compensation schedule for removal, disposal, and incidental costs.
    - give owners notice of their abandoned vehicles within 24 hours of the vehicle's removal.
  - Agency provided comments related to the definition of junk vehicles and conflicts in language contained in the bill as they related to funding and the MCOG IECP

PROGRAMS/ PROJECTS:

- **Response to Green Liquid Discharge on Rojas Street, Harmon - October 8**
  - Agency leadership notified GWA and established a collaborative effort to investigate

- Agency Chief engineer and ER response reported to the area to perform a cursory site assessment alongside GWA personnel
- No identification of the discharge or the source of the discharge has been made at this time.
- GWA is running analysis on samples with its compliance lab and with UOG WERI
- Agency also requested and received samples from GWA and has sought out assistance from DPHSS DEH to attempt to identify the discharge
- Statements issued to media, and Agency appeared on K57 to address the incident

- **Consent Decree Update**
  - On August 3, 2022, status hearing, remaining work at the Ordot Dump prior to the termination of the Receivership.
  - Court orders the parties to meet and confer on the following matters:
  - (1) The parties shall develop a plan of action to identify the cause for the increased leachate volume at the Ordot Dump and possible remedies;
  - (2) The Consent Decree required that in February 2016, "DPW shall cease all discharges to waters of the United States and submit a certification to U.S. EPA that discharges to waters of the United States from the Ordot Dump have ceased."
  - The parties shall discuss whether this certification is separate from or part of post-closure operations and whether the Receiver is required to revise the certification it previously submitted as to this issue; and
  - (3) The Receiver's most recent cost estimates of the Ordot Dump's post-closure care has significantly increased. The parties shall review the cost estimates and discuss options for reducing the cost estimate, possible funding sources for any increased cost and alternative payment plans that may or may not involve financial assurances from the Government of Guam or the Guam Solid Waste Authority.

- **Open Burn / Open Detonate Permit Status Update**
  - Permit application is still in review, the Agency is working with USEPA R9 Permitting Section.
  - AAFB is currently reviewing/evaluating alternative technologies and will provide the Agency with their findings.
  - Open burning has not occurred since 2000, should AAFB decide to resume OB operations then they will have to submit their plans to the Agency for review/approval in accordance with the regulations and if it meets the requirements then a 45-days public comment period will be initiated.
  - According to Administrator Leon Guerrero, Guam EPA has indicated in a letter to the General that the OB portion of the permit should be closed so as to inhibit future work in the unit. Guam EPA is diligently working and thoroughly reviewing all regulations to avoid breaking any laws.

- **Bipartisan Infrastructure Law**
  - The Agency is working with the Region to identify funds that Guam EPA and the island of Guam can receive for utilization; Solid Waste funding, Contaminant funding, in addition to regulatory oversight funding.

- **Public Comments on OB/OD**
  - Chairman Carbullido requested clarification on GEPA's comments regarding the Open Burn component. GEPA clarified that Open Burning has not taken place in approximately 20 years and because so much time has passed, for Open Burn to resume, a full regulatory process will need to be completed that includes an analysis of utilizing a more modern alternative technology. Don Quinata further commented that this full review process is mandatory; they would need to ensure there are no UXOs in the potential areas, they need to conduct soil testing for contamination, and need to establish a baseline if alternative technologies are applicable. Don stated AAFB are the subject matter experts. If their plans are approved, then GEPA can initiate the 45-day public comment period for that specific OB part of the permit.
  - Chairman Carbullido opened the floor for comments. Monaeka Flores noted her group has made a petition that gained 4,000 signatures; the petition is for the denial of the permit for OB/OD. She stated that Prutehi Litekyan have made several requests to meet with the leadership at Guam EPA. Flores shared the following comments: she acknowledged that the Board has no vote to deny this permit and requests the Agency deny this permit as she believes AAFB has failed to recognize what alternatives are available.

    Additional individuals shared their testimony for the Agency to deny the OB/OD permit application. These speakers included Jessica Nangauta, Bobbie Benavente, Maria Sol Marquez, Taylor Paige Aguon, Kyle Dahilig, Czeska Cabuhat, former Senator Hope Cristobal, Dakota Camacho, Jeremy Cepeda, Lauren Taijeron, Julia Munoz, Senator Sabina Perez, former Senator Kelly Marsh Taitano. Testimonies noted that the Guam EPA Administrator should deny this permit because safer alternatives exist. Administrator Leon Guerrero thanked the individuals for sharing their concerns. He shared that GEPA is working diligently on this permit application and no determination for approval or rejection has been made at this point.

    Don Quinata stated that the bottom line is that Guam EPA is simply following the law and what is written in the regulations. He noted there might be alternatives, but not for every single aspect and item in this particular permit. He stated that AAFB is doing their due diligence in the efforts to seek alternative technologies. In the event they find any that are viable, they are to report it to the Guam EPA. Kelly Marsh-Taitano thanked the Board for their time service to the community. She explained that she appreciates the solidarity for this issue and agrees with the community. She noted concerns about the applicant being the sole experts for an application like this. She stated that GEPA should use third party consultants instead of leaving it to the applicant. She urged that applicants provide all alternatives prior to submissions of an application, something that NEPA guides. Director Hollister appreciated the passion and shared the same sentiments that this is

our island home. Director Dueñas thanked everyone and noted the passion of the group to speak up and share their testimonies. Director Carrara appreciated the time and persistence in the speakers in voicing themselves about something of this importance. Director Castro echoes everyone's comments; we all care about our home and notes how amazing this effort was for each speaker. Chairman Carbullido adds that he is a huge supporter of those who advocate for clean water. He shares the same vision with the Board members on the importance of our home and thanked everyone for sharing. Chairman noted that the meeting was published in the newspaper as a virtual meeting prior to the request for community comments on the OB/OD application, and that he received guidance that the meeting venue cannot change after it has been duly noticed due to the Open Government Law.

New Notices of Violation

- No New NOVs
- Update on Samsung: Requesting final approval of their work – will be scheduled in the next few weeks
    - Senator Perez and CAPT Brian Bearden speak on the training area being close to water wells. CAPT Bearden states GEPA is still in review of the well-head protection. No approval has been issued yet.
    - Old NOVs:
        - J755 Urban Range Project – CAPT. Brian Bearden was not at liberty to explain further as an appeal has been filed. Guam EPA issued an NOV to CHK; Andersen South: vehicle maneuvering range, grenade training range, urban combat training area, indoor shoot house, and a few other activities. Basis for the NOV is constructing without full permission and completion of the design review process. The matter is under review by the Board's Hearing Officer.
        - Primo's Heavy Equipment – Hearing Officer is coordinating with the attorneys.
        - Samsung – Hearing Officer is coordinating with the attorneys.
        - JJ Pacific Development– Guam EPA Legal Counsel in progress with paperwork to support closeout
        - Lin's Hardware – Agency to conduct follow-up inspection to see if products are still available
        - GPPC, Inc. (Crown Plaza project) – Agency to conducted follow up inspection, closeout.
        - Upper Tumon Property – Currently under investigation
        - Old Royal Palm Garage update – Agency to conduct follow up inspection
        - Verona – Pending further contact with new owner

- Cardona – Compliance inspection scheduled for October 20, 2022
- UMS Hardfill Facility in Mangilao (SWMP) – Penalty has been issued: $27,000.00. Pending payment that is due October 27, 2022
- Royal Palm Parking Garage – Cleanup underway

New Meeting Date/Adjournment:

Next meeting was set for November 17, 2022 at 4pm. Director Duenas made a motion to adjourn meeting and seconded by Director Hollister. All voted in favor, zero opposed, and regular meeting adjourned around 6:02 p.m.

JeanAnn Artero
Board Secretary

		Annual Appropriation account	FY23 PROJECTS	ENCUMBERED	EXPENDITURES	BALANCE
SALARIES	Operational Cost		45,014.00	45,014.00	4,328.00	40,686.00
BENEFITS			17,077.00	17,077.00	1,602.26	15,474.74
CONTRACTUAL:						
	Contract for Professional Services to Promote Recycling		100,000.00	-	-	-
	Contract for Professional Services to develop and implement in		300,000.00	-	-	-
	Recycling Industry Economic Stimulus Program		500,000.00			-
	Mayor's Council of Guam Island-wide Environmental Cleanup Program to start the beginning of FY2023 increments to follow upon request. Not to exceed 1.5M		1,500,000.00	1,000,000.00	-	1,000,000.00
Total Amount approved by Legislature:		**$2,776,824.00**	**2,462,091.00**	**1,062,091.00**	**5,930.26**	**314,733.00**

ACCOUNT EXPIRES 9/30/2023

	NON LAPSING account	YTD	OUTSTANDING ENCUMBRANCE	EXPENDITURES	BALANCE
SALARIES		71,333.70	-	-	71,333.70
BENEFITS		45,212.70	-	-	45,212.70
TRAVEL		33,937.47	729.00	-	33,208.47
CONTRACTUAL		3,160,033.29	-	-	3,160,033.29
SUPPLIES		10,426.59			10,426.59
EQUIPMENT		12,361.67			12,361.67
Total Amount	-	**3,333,305.42**	**729.00**	-	3,332,576.42

ACCOUNT EXPIRES 9/24/2024

	Fiscal Year 2023 Revenu	As of
Recycling Fees	97,003.25	10/14/2022
	190,044.69	11/11/2022